

# The Gazette of India.

PUBLISHED BY AUTHORITY.

DELHI, SATURDAY, JANUARY 10, 1914.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

GOVERNMENT OF INDIA

## LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th January, 1914 —

No. 1 of 1914

*A Bill to consolidate and amend the law relating to the grant of loans to Local Authorities*

WHEREAS it is expedient to consolidate and amend the law relating to the borrowing powers of local authorities; It is hereby enacted as follows:—

Short title and extent **1** (1) This Act may be called The Local Authorities Loans Act, 1914

(2) It extends to the whole of British India, including the Sonthal Parganas

**2.** In this Act, "local authority" means any person legally entitled to the control or management of any local or municipal fund, or legally entitled to impose any cess, rate, duty or tax within any local area;

"funds," used with reference to any local authority, includes any local or municipal fund to the control or management of which such authority is legally entitled, and any cess, rate, duty or tax which such authority is legally entitled to impose, and any property vested in such authority;

"prescribed" means prescribed by rules made under this Act; and

"work" includes a survey, whether incidental to any other work or not

**3.** (1) A local authority may, subject to the borrowing powers prescribed conditions, borrow of local authorities on the security of its funds or any portion thereof for any of the following purposes, namely:—

- (i) for the carrying out of any works which it is legally authorized to carry out,
- (ii) the giving of relief and the establishment and maintenance of relief works in times of famine or scarcity,
- (iii) the prevention of the outbreak or spread of any dangerous epidemic disease,
- (iv) any measures which may be connected with or ancillary to any purposes specified in clauses (ii) and (iii),
- (v) for the purpose of repaying money previously borrowed in accordance with law

Provided that nothing in clause (v) shall be deemed to empower a local authority to fix a period for the repayment of any money borrowed thereunder which, when the period fixed for the repayment of the money previously borrowed is taken into account, will exceed the maximum period fixed for the repayment of a loan by or under any enactment for the time being in force.

(2) Nothing in this section shall be deemed to authorize any local authority:—

- (a) to borrow or spend money for any purpose for which, under the law for the time being in force, it is not authorized to apply its funds, or

[Section  
Act XI  
1879.]

5. Power to Governor  
General in Council  
to make rules

4. (1) The Governor General in Council may make rules consistent with this Act as to—

- (i) the nature of the funds on the security of which money may be borrowed ;
- (ii) the works for which money may be borrowed ;
- (iii) the manner of making applications for permission to borrow money ;
- (iv) the inquiries to be made in relation to such loans, and the manner of conducting such inquiries ;
- (v) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published ;
- (vi) the cases in which the Local Government may make loans without the previous sanction of the Governor General in Council, and the cases in which such previous sanction must be obtained ;
- (vii) the cases in which the Local Government may authorize local authorities to take loans from persons other than the Local Government, and the cases in which the previous sanction of the Governor General must be obtained to such loans ;
- (viii) the manner of recording and enforcing the conditions on which money is to be borrowed ;
- (ix) the manner and time of making or raising loans ;
- (x) the inspection of any works carried out by means of loans ;
- (xi) the instalments, if any, by which loans shall be repaid, the interest to be charged on loans, and the manner and time of repaying loans and of paying the interest thereon ;
- (xii) the sum to be charged against the funds which are to form the security for the loan, as costs in effecting the loan ;
- (xiii) the attachment of such securities, and the manner of disposing of or collecting them ;
- (xiv) the accounts to be kept in respect of loans ;
- (xv) the utilization of the unexpended balances of loans either in the reduction in any way of the debt of the local authority, or in carrying out any works which that authority is legally authorized to carry out ; and the sanction necessary to such utilization ;

and as to all other matters incidental to carrying this Act into effect.

(2) The Governor General in Council may, subject to such conditions and restrictions as he thinks fit, delegate to a Local Government, or Local Governments generally, all or any of his rule-making powers.

(3) All rules made under this Act shall be published in the Gazette of India, if made by the Governor General in Council, or, if made by a Local Government in the exercise of a delegated power, in the local official Gazette ; and, on such publication, shall have effect as if enacted in this Act.

5. If any loan borrowed in accordance with the provisions of this Act, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan,

the Local Government, if itself the lender, may, and, if the Local Government is not the lender, shall, on the application of the lender, attach the funds on the security of which the loan was made. After such attachment, no person, except an officer appointed in this behalf by the Local Government, shall in any way deal with the attached funds ; but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interests and costs due in respect thereof, and of all expenses caused by the attachment and subsequent proceedings :

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law ; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of a liability incurred under this Act.

6. (1) Subject to the provisions of section 26 of the Indian Paper Currency Act, 1910, the local authorities mentioned in Schedule I and any other local authority to which the Governor General in Council may, by notification in the Gazette of India, extend the provisions of this section, may, with the previous sanction of the Governor General in Council, borrow money by means of the issue of bills or promissory notes payable within any period, not exceeding twelve months, for any purpose for which such local authority may lawfully borrow money under any law for the time being in force :

Provided that the amount of the bills or promissory notes which may be so issued, shall not exceed, when the amount of the other moneys for the time being borrowed by such local authority is taken into account, the total amount which such local authority is empowered by law to borrow.

(2) The Governor General in Council may, by general or special order, regulate the conditions on which money may be borrowed or repaid under this section.

7. Except as provided by or under this Act, no local authority shall, for any purpose, borrow money upon, or otherwise charge, its funds ; and any contract otherwise made for that purpose after the passing of this Act shall be void :

Provided that nothing herein contained shall be deemed—

- (a) to preclude any local authority from exercising the borrowing powers conferred on it by any special enactment now or hereafter in force ; or
- (b) to affect the power conferred on any local authority by any such enactment to charge its funds, by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied.

8. The Secretary of State in Council shall be entitled to the remedy mentioned in section 5 for the recovery of any money lent by him to any local authority before the fifth day of September, 1871, and the interest due on such money.

9. The enactments mentioned in Schedule II are repealed to the extent specified in the fourth column thereof :

Provided that all applications, declarations, authorizations, attachments, loans and rules made under any of these enactments shall be deemed to have been made under this Act.



## SCHEDULE I.

*(See section 6.)*

The Corporation of Calcutta.  
 The Commissioners for the Port of Calcutta.  
 The Commissioners for the Port of Chittagong.  
 The Municipal Corporation of the City of Bombay.  
 The Trustees of the Port of Bombay.  
 The Corporation of Madras.  
 The Trustees for the Port of Madras.  
 The Municipal Committee of Rangoon.  
 The Commissioners for the Port of Rangoon.  
 The Municipality of Karachi.  
 The Trustees of the Port of Karachi.  
 The Trustees for the Improvement of the City of Bombay.  
 The Trustees for the Improvement of the City of Calcutta.

## SCHEDULE II.

ENACTMENTS REPEALED.

*(See section 9.)*

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1879	XI	The Local Authorities Loans Act, 1879 . . . . .	So much as is not repealed.
1885	XV	The Local Authorities Loans Act (1879) Amendment Act, 1885.	The whole.
1897	XII	The Local Authorities (Emergency) Loans Act, 1897 . . . . .	So much as is not repealed.
1904	III	The Local Authorities Loans Act, 1904 . . . . .	So much as is not repealed.
1905	I	The Local Authorities Loans (Amendment) Act, 1905 . . . . .	The whole.
1907	V	The Local Authorities Loans (Amendment) Act, 1907 . . . . .	The whole.
1908	VIII	The Local Authorities Loans (Amendment) Act, 1908 . . . . .	The whole.
1912	XI	The Local Authorities (Emergency) Loans (Amendment) Act, 1912.	The whole.

### Distribution of Sections.

Act XI of 1879		Bill
Section	1	Short title
"	2	Repeal See clause 9
"	3	Clause 2
"	4	" 3 (1)
"	5	" 4
"	6	" 5
"	7	" 4 and clause 5.
"	8	" 7
"	9	" 8 (portion of section 9, which is spent, omitted)
Act XV of 1885		
Section	1	Clause 7 (c)
Act XII of 1897.		
Section	1	Short title, etc
"	2	Clause 3 (1) (ii), (iii), (iv).
"	3	" 4
"	4	" 5 and clause 4
"	5	Spent
Act III of 1904		
Section	1	Application Clause 6
"	2	Clause 6
"	3	" 3 (v), proviso
"	4	" 6
Act I of 1905		
Section	1	Short title
"	2	Clause 7 (a)
Act V of 1907		
Section	1	Short title
"	2	Clause 2
"	3	" 7 (a)
Act VIII of 1908.		
Section	1	Short title
"	2	Clause 6
Act XI of 1912		
Section	1	Short title.
"	2	Clause 4 (1) (vi)
"	3	" 4 (1) (vi)
"	4	" 3

## STATEMENT OF OBJECTS AND REASONS

CERTAIN practical difficulties have arisen in the working of the Local Authorities Loans Act, 1879 (XI of 1879), and it is proposed to amend that Act so as—

- (1) To remove all doubts as to the competency of Port Officers to borrow under the Act
- (2) To make it clear that in the case of loans raised under section 7 of the Act (i.e., loans raised in the open market) the Government of India can --
  - (a) by rule delegate the power of sanction to Local Governments,
  - (b) direct that the unexpended balances of such loans shall be applied in the reduction of the debt of the local authority concerned, or utilised in carrying out works which the local authority is legally authorised to carry out,
  - (c) by rule delegate to Local Governments, subject to such conditions as the Governor General in Council may by rule impose, the power referred to in the preceding clause

2 At the same time it is considered desirable to take this opportunity of consolidating the existing Acts which relate to loans raised by Local Authorities

Those Acts are as follows —

- (1) The Local Authorities Loans Act of 1879 (XI of 1879) as amended by Act XV of 1885, Act I of 1905 and Act V of 1907. This is the general Act under which local authorities derive their ordinary borrowing powers
- (2) The Local Authorities (Emergency) Loans Act, 1897 (XII of 1897), as amended by Act XI of 1913. This Act extended the scope of the general Act by enabling local authorities to borrow money for certain temporary emergencies, such as famine relief and the prevention of epidemic diseases
- (3) The Local Authorities Loans Act, 1904 (III of 1904), as amended by Act VIII of 1908, which empowered certain of the more important local authorities in India (specified in the Schedule to the Act) to raise money by the issue of short-term bills repayable within twelve months. Opportunity was taken to embody in this Act a provision (section 3) enabling local authorities, under certain restrictions, to raise money in order to repay money previously borrowed.

3 These three Acts, together with their various amending Acts, have been consolidated in the draft Bill, and, if the latter becomes law, will disappear from the Statute-book. The amendments mentioned in paragraph 1 above have also been provided for in the following manner —

*Amendment (1)* This is covered by the substitution of the words “any person” for the words “any body corporate, Municipal Committee, or other persons” in the present definition of local authority as given in section 3 of Act XI of 1879—see clause 2 of the Bill

*Amendment 2 (a)* This has been provided for by clause 4 (I) (vii) of the Bill

*Amendments 2 (b) & (c)* These have been provided for by clause 4 (1) (xv) of the Bill

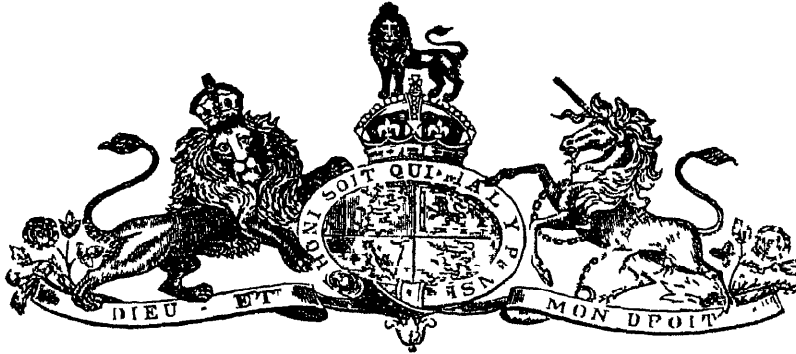
4 In addition to these amendments, opportunity has been taken to reconcile certain discrepancies and to effect certain simplifications in the existing law which are due to the fact that the Acts now in force have been passed at different times to deal with special circumstances. Apart from this the Bill makes no change of principle in the existing law, and, in particular, does not affect the borrowing powers conferred on any local authority by any special enactment

W. S. MEYER.

*The 4th January, 1914*

W. H. VINCENT,  
*Secretary to the Government of India.*





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PUBLISHED BY AUTHORITY.

DELHI, SATURDAY, JANUARY 17, 1914.

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## PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

### GOVERNMENT OF INDIA LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to prevent the introduction into British India of any insect, fungus or other pest, which is or may be destructive to crops, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th January, 1914.—

We, the undersigned, Members of the Select Committee to which the Bill to prevent the introduction into British India of any insect, fungus or other pest, which is or may be destructive to crops was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. We have made a verbal change in clause 5 so as to assimilate the wording to that of clause 3, but see no reason to modify the Bill in any other respect

3. The publication ordered by the Council has been made as follows —

<i>Gazette.</i>	<i>In English</i>	<i>Date.</i>
Gazette of India . . . . .		19th September, 1913
Fort Saint George Gazette . . . . .		23rd September, 1913.
Bombay Government Gazette . . . . .		18th September, 1913.
Calcutta Gazette . . . . .		24th September, 1913.
Bihar and Orissa Government Gazette . . . . .		24th September, 1913.
United Provinces of Agra and Oudh Government Gazette . . . . .		20th September, 1913.
Punjab Government Gazette . . . . .		19th September, 1913.
Burma Gazette . . . . .		27th September, 1913.
Assam Gazette . . . . .		24th September, 1913.
Central Provinces Gazette . . . . .		20th September, 1913.
Coorg District Gazette . . . . .		2nd October, 1913.
Sindh Official Gazette . . . . .		25th September, 1913
North-West Frontier Province Gazette . . . . .		26th September, 1913.

<i>In the Vernaculars.</i>		
<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras . . . . .	Tamil . . . . .	14th October, 1913.
	Telugu . . . . .	
	Kanarese . . . . .	
	Malayalam . . . . .	
Bombay . . . . .	Marathi . . . . .	23rd October, 1913.
	Gujrati . . . . .	
	Kanarese . . . . .	
Bihar and Orissa . . . . .	Hindi "Bihar Advocate" of 12th January, 1914.	
	Uriya { "Utkal Dipika" of 8th November, 1913.	
	{ "Narasambad" of 19th November, 1913.	
Punjab . . . . .	Urdu . . . . .	26th September, 1913.
Burma . . . . .	Burmese . . . . .	4th October, 1913.
Coorg . . . . .	Kanarese . . . . .	1st November, 1913.
Sindh . . . . .	Sindhi . . . . .	6th November, 1913.

4. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

R. W. CARLYLE.  
 SYED ALI IMAM.  
 MAUNG MYE.  
 S. R. ARTHUR.  
 MIR ASAD ALI.  
 R. E. ENTHOVEN.  
 E. D. MACLAGAN.  
 L. M. WYNCH.  
 J. MacKENNA.  
 JAMES DONALD.

*The 14th January, 1914.*

As the Hon'ble Sir Fazulbhoj Currimbhoy and the Hon'ble Maharaja Ranajit Sinha are not in Delhi and did not attend the Select Committee, their signatures are not appended.

[BILL AS AMENDED BY THE SELECT COMMITTEE.]

[Words printed in italics indicate amendments suggested by the Select Committee.]

*A Bill to prevent the introduction into British India of any insect, fungus or other pest which is or may be destructive to crops.*

WHEREAS it is expedient to make provision for preventing the introduction into British India of any insect, fungus or other pest, which is or may be destructive to crops; It is hereby enacted as follows :—

1. [This Act may be called The Destructive Insects and Pests Act, 1914.]

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "crops" includes all agricultural or horticultural crops, and trees or bushes;

(b) "import" means the bringing or taking by sea or land; and

(c) "infection" means infection by any insect, fungus or other pest injurious to a crop.

3. (1) The Governor General in Council may, by notification in the Gazette of India, prohibit or regulate, subject to such restrictions and conditions as he may impose, the import into British India, or any part thereof, or any specified place therein, of any article or class of articles likely to cause infection to any crop.

(2) A notification under this section may specify any article or class of articles, either generally or in any particular manner, whether with reference to the country of origin, or the route by which imported or otherwise.

4. A notification under section 3 shall operate as if it had been issued under section 3. VIII of 1878.

Operation of notification under section 3. if it had been issued under section 19 of the Sea Customs Act, 1878, and the officers of Customs at every port shall have the same powers in respect of any article with regard to the importation of which such a notification has been issued as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to Sea Customs, and the law for the time being in force relating to Sea Customs or any such article shall apply accordingly.

5. (1) The Local Government may, subject to the control of the Government to make rules. nor General in Council, make rules for the detention, inspection, disinfection or destruction of any article or class of articles in respect of which a notification has been issued under section 3 or of any article which may have been in contact or proximity thereto, and for regulating the powers and duties of the officers whom it may appoint in this behalf.

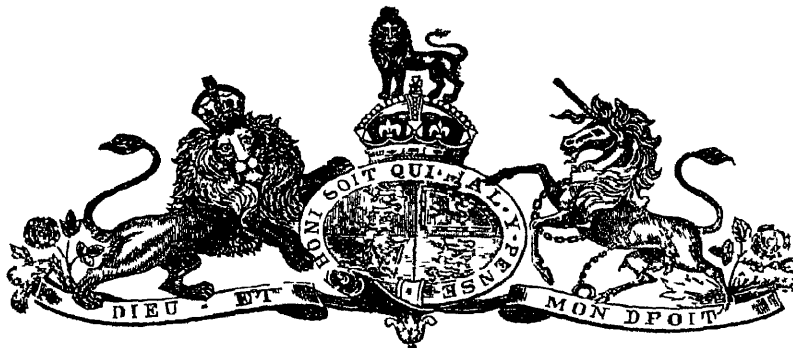
(2) In making any rule under this section the Local Government may direct that a breach thereof shall be punishable with fine, which may extend to one thousand rupees.

6. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

W. H. VINCENT,  
Secretary to the Government of India.







# The Gazette of India.

PUBLISHED BY AUTHORITY.

DELHI, SATURDAY, FEBRUARY 7, 1914.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill further to amend the Indian Telegraph Act, 1885, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 31d February, 1914 —

WE, the undersigned, Members of the Select Committee to which the Bill further to amend the Indian Telegraph Act, 1885, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Papers No 1 — From Registrar, High Court, Calcutta, No 2340, dated the 17th June, 1913, from Agent to Governor General and Chief Commissioner in Baluchistan, No 1887, dated the 21st June, 1913, from Chief Commissioner, Coorg, No C-73, dated the 22nd June 1913, from Chief Commissioner, Ajmer-Merwara, No 2813, dated the 18th July, 1913, and from Chief Commissioner, North West Frontier Province, No 767 N., dated the 4th August 1913

Papers No 2 — From Chief Commissioner, Delhi, No 6010 Legislative, dated the 8th August, 1913, from Government of Punjab, No 1987 B C and I, dated the 14th August, 1913, and from Chief Commissioner, Central Provinces, No 724-VIII-33-2, dated the 15th August, 1913

Papers No 3 — From Government of Bihar and Orissa, No 9154-F, dated the 18th August, 1913, and from Government of United Provinces, No 1188, dated the 21st August, 1913

Papers No 4 — From Government of Madras, No 1707-W, dated the 27th August, 1913, and enclosures

Papers No 5 — From Chief Commissioner of Assam, No 4818 J, dated the 28th August, 1913, and enclosures

Papers No 6 — From Government of Burma, No 435-10 T-12, dated the 28th August, 1913, and enclosures

Papers No 7 — From Government of Bengal, No 948-T Misc, dated the 11th September, 1913, and enclosures

Papers No 8 — From Government of Bombay, No D-168, dated the 28th October, 1913, and enclosures

2 We have modified that portion of the first clause of the Bill which deals with the extent of the Act by excluding all references to British Baluchistan, as we have ascertained that, under the existing law, the Indian Telegraph Act of 1885, as amended from time to time, is already in force in that province

3 We have added to clause 4 a proviso authorising the Government of India to permit, by rules in that behalf, the establishment and maintenance of any telegraph other than a wireless telegraph in any part of British India. We are informed that the establishment and maintenance of private telephones is in practice allowed by the Government, subject to certain restrictions, and this amendment legalizes this arrangement

4 In order to facilitate the delivery of notices under section 19A we have modified that section so as to provide that notices may be given either to the telegraph authority or to any telegraph officer authorised in that behalf. With this amendment it will be possible to vest all officials in charge of telegraph offices with the necessary power to receive notices under this section.

5 We have made three modifications in sub-section (2) of the same section. In the first place, we have made it clear that the sub-section applies to all cases in which notice for the required period has not been given; secondly, we have inserted an amendment authorising the magistrate to require his order under the sub-section to be carried out immediately, and, thirdly, we have provided that the power vested in the magistrate to prohibit temporarily the exercise of legal rights of ownership shall have effect for a period of one month only, which is the period of notice prescribed in sub-section (1).

6 We have not provided in section 19A for the case of persons dealing with property in obedience to an order based on statutory authority, as we are of opinion that such persons would not come within the scope of section 19A, which only affects persons voluntarily exercising rights of private ownership.

7 We have not thought it necessary to modify section 19B by imposing any statutory limitations upon the powers which may be vested in the licensee under this section, as the grant of such powers will be subject to such conditions and restrictions as the Governor General in Council may think fit to impose.

8 We have amended section 20 by providing that offences under this section in respect of wireless telegraphy shall be bailable and non-cognizable.

9 The publication ordered under rule 23 of the Rules of Legislative Business has been made as follows:—

<i>Gazette</i>	<i>In English</i>	<i>Date</i>
Gazette of India	.	17th May, 1913
Port Saint George Gazette	.	27th May, 1913
Bombay Government Gazette	.	22nd May, 1913
Calcutta Gazette	.	28th May, 1913
Bihar and Orissa Government Gazette	.	28th May, 1913
United Provinces of Agra and Oudh Government Gazette	.	21st May, 1913
Punjab Government Gazette	.	23rd May, 1913
Burma Gazette	.	31st May, 1913
Assam Gazette	.	28th May, 1913
Central Provinces Gazette	.	24th May, 1913
Coorg District Gazette	.	2nd June, 1913
Sind Official Gazette	.	26th June, 1913
North-West Frontier Province Gazette	.	23rd May, 1913

<i>Province</i>	<i>In the Vernaculars.</i>	<i>Language</i>	<i>Date</i>
Madras	Tamil	.	22nd July, 1913.
	Telugu	.	
	Hindustani	.	
	Kannarese	.	
	Malayalam	.	
	Urdu	.	12th August, 1913
United Provinces of Agra and Oudh	Urdu	.	5th July, 1913.
Coorg	Kannarese	.	1st August, 1913

10 We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

W H CLARK  
 ALI IMAM  
 IBRAHIM RAHIMTOOLA  
 MOHAMED ALI MOHAMED  
 R E ENTHOVEN  
 W MAXWELL  
 SURENDRA NATH BANERJEE  
 J H ABBOTT  
 L M WYNCH  
 G H B KENRICK  
 W. F RICE

*The 31st January, 1914*

NOTE.—The Hon'ble Mr. Das did not attend the last meeting of the Select Committee and did not therefore sign the Report.

[AS AMENDED BY THE SELECT COMMITTEE]

[Words printed in italics indicate amendments suggested by the Select Committee.]

*A Bill further to amend the Indian Telegraph Act, 1885*

XIII, 1885 WHEREAS it is expedient further to amend the Indian Telegraph Act, 1885, It is hereby enacted as follows—

1 This Act may be called the Indian Telegraph (Amendment) Act, 1911  
Short title

XIII, 1885 2 For sub-section (2) of section 1 of the Indian Telegraph Act, 1885 (herein after called the said Act), the following shall be substituted, namely—

(2) It extends to the whole of British India, including the Sonthal Parganas, and the pargana of Spiti, and it applies also to—

- (a) all native Indian subjects of His Majesty in any place without and beyond British India,
- (b) all other British subjects within the territories of any Native State in India, and
- (c) all servants of the King, whether British subjects or not, within the territories of any Native State in India.

3 In clause (1) of section 3 of the said Act for the words "transmitting or making," the words "making, transmitting or receiving" shall be substituted  
Amendment of section 3 of the said Act

4 Section 4 of the said Act shall be renumbered section 1 (1) and after the said sub-section the following proviso and sub-section shall be added, namely—

"Provided further that the Governor General in Council may, by rules made under this Act, and published in the Gazette of India, permit, subject to such restrictions and conditions as he thinks fit, the establishment, maintenance and working—

- (a) of wireless telegraphs on ships within Indian territorial waters, and
- (b) of telegraphs other than wireless telegraphs within any part of British India

"(2) The Governor General in Council may, by notification in the Gazette of India, delegate to the telegraph authority all or any of his powers under the first proviso to sub-section (1)

The exercise by the telegraph authority of any power so delegated shall be subject to such restrictions and conditions as the Governor General in Council may, by the notification, think fit to impose."

5 After section 19 of the said Act the following sections shall be inserted, namely—  
Insertion of new sections 19A and 19B after section 19 of the said Act

"19A (1) Any person desiring to deal in the legal exercise of a right with any property in such a manner as is likely to cause damage to a telegraph line or post which has been duly  
Person exercising legal right likely to damage telegraph or interfere with telegraphic communication to give notice

placed in accordance with the provisions of this Act, or to interrupt or interfere with telegraphic communication, shall give not less than one month's notice in writing of the intended exercise of such right to the telegraph authority, or to any telegraph officer whom the telegraph authority may empower in this behalf

"(2) If any such person without having complied with the provisions of sub-section (1) deals with any property in such a manner as likely to cause damage to any telegraph line or post, or to interrupt or interfere with telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, order such person to abstain from dealing with such property in such manner for a period not exceeding one month from the date of his order and forthwith to take such action with regard to such property as may be in the opinion of the Magistrate necessary to remedy or prevent such damage, interruption or interference during such period

"19B The Governor General in Council may, by notification in the Gazette of India, confer upon any telegraph authority under licensee under section 4, in this Part respect of the extent of his licence and subject to any conditions and restrictions which the Governor General in Council may think fit to impose and to the provisions of this Part, all or any of the powers which the telegraph authority possesses under this Part with regard to a telegraph established or maintained by the Government or to be so established or maintained

"Provided that the notice prescribed in section 19A shall always be given to the telegraph authority or officer empowered to receive notice under section 19A(1)"

6 For section 20 of the said Act the following substitution of new section shall be substituted, namely—  
Substitution of new section for section 20 of the said Act

"20 (1) If any person establishes, maintains, or works a telegraph within British India in contravention of the provisions of section 4 or otherwise than as permitted by rules made under that section, he shall be punished if the telegraph is a wireless telegraph, with imprisonment which may extend to three years or with fine, or with both, and, in any other case, with a fine which may extend to one thousand rupees

"(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, offences under this section in respect of a wireless telegraph shall, for the purposes of the said Code, be bailable and non-cognizable

"(3) When any person is convicted of an offence punishable under this section, the Court before which he is convicted may direct that the telegraph in respect of which the offence has been committed, or any part of such telegraph, be forfeited to His Majesty"

7 After section 20 of the said Act the following section shall be inserted, namely—  
Insertion of new section 20A after section 20 of the said Act

"20A If the holder of a licence granted under section 4 contravenes any condition contained in his licence, he shall be punished with fine which may

extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the breach of the condition continues."

**8.** After section 25 of the said Act the following section shall be inserted, namely :—

"25A. If, in any case not provided for by section 25, any person deals with any property and thereby wilfully or negligently damages any telegraph line or post duly placed on such property in accordance with the provisions of this Act, he shall be liable to pay the telegraph authority such expenses (if any) as may be incurred in making good such damage, and shall also, if the telegraphic communication is *by reason of the damage so caused* interrupted, be punishable with a fine which may extend to one thousand rupees :

"Provided that the provisions of this section shall not apply where such damage or interruption is caused by a person dealing with any property in the legal exercise of a right if he has *complied with the provisions of* section 19A (1).

**9.** After section 29 of the said Act the following section shall be inserted, namely :—

"29A. If any person, without due authority,—

- (a) makes or issues any document of a nature reasonably calculated to cause it to be believed that the document has been issued by, or under the authority of, the Director-General of Telegraphs, or
- (b) makes on any document any mark in imitation of, or similar to, or purporting to be, any stamp or mark of any Telegraph Office under the Director-General of Telegraphs, or a mark of a nature reasonably calculated to cause it to be believed that the document so marked has been issued by, or under the authority of, the Director-General of Telegraphs,

he shall be punished with fine which may extend to fifty rupees."

**10.** In section 34 (1) of the said Act after the figures and word "18, sub-section (1)," the words, figures and letter, "and section 19A, sub-section (2)," shall be inserted.

W. H. VINCENT,  
Secretary to the Government of India.

GOVERNMENT OF INDIA  
**LEGISLATIVE DEPARTMENT.**

The following Report of the Select Committee on the Bill further to amend the Negotiable Instruments Act, 1881, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 31d February 1914 —

We, the undersigned, Members of the Select Committee to which the Bill further to amend the Negotiable Instruments Act, 1881, was referred, have considered the Bill and have now the honour to report that we have no amendments to suggest and that we recommend that it be passed as introduced

2 The publication ordered under rule 23 of the Rules of Legislative Business has been made as follows —

<i>Gazette</i>	<i>In English</i>	<i>Date</i>
Gazette of India		18th December, 1913
Fort Saint George Gazette		23rd " "
Bombay Government Gazette		18th " "
Calcutta Gazette		31st " "
Bihar and Orissa Government Gazette		7th January, 1914
United Provinces of Agra and Oudh Government Gazette		3rd " "
Punjab Government Gazette		2nd " "
Burma Gazette		3rd " "
Assam Gazette		7th " "
Central Provinces Gazette		3rd " "
Cooch District Gazette		2nd " "
Sind Official Gazette		25th December, 1913
North-West Frontier Province Gazette		26th " "

<i>Province</i>	<i>In the Vernacular</i>	<i>Language</i>	<i>Date</i>
Madras	Tamil	.	18th January, 1914
	Telugu	.	
	Hindustani	.	
	Kanarese	.	
	Malayalam	.	
Bombay	Marathi	.	22nd " "
	Gujarathi	.	
	Kanarese	.	
Punjab	Urdu	.	2nd " "
Burma	Burmese	.	10th " "
Sind	Sindhi	.	23rd " "

W S. MEYER  
ALI IMAM  
A. M. MONTEATH.  
C VIJJIARAGHAVACHARIAR  
IBRAHIM RAHIMTOOLA  
FAZULBHOY CURRIMBHOY.  
SITA NATH ROY  
J B BRUNYATE  
E H WALSH  
L M. WYNCH  
J. DONALD

*The 28th January, 1914*

W H VINCENT,  
*Secretary to the Government of India*



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to consolidate and amend the law relating to the grant of loans to Local Authorities was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 31d February, 1914 —

We, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend the law relating to the grant of loans to Local Authorities was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto

2 We have modified the drafting of the proviso to clause 5 of the Bill in order to make the meaning clear. The other changes made are purely verbal and call for no remark.

3 The publication ordered by the Council has been made as follows —

<i>Gazette</i>	<i>In English</i>	<i>Date</i>
Gazette of India	. . . . .	10th January, 1914.
Fort Saint George Gazette	. . . . .	20th January, 1914.
Bombay Government Gazette	. . . . .	15th January, 1914.
Calcutta Gazette	. . . . .	21st January, 1914.
Bihar and Orissa Government Gazette.	. . . . .	28th January, 1914.
United Provinces Gazette	. . . . .	24th January, 1914.
Punjab Government Gazette	. . . . .	23rd January, 1914.
Burma Gazette.	. . . . .	31st January, 1914.
Central Provinces Gazette	. . . . .	24th January, 1914.
Assam Gazette	. . . . .	25th January, 1914.
Coorg District Gazette	. . . . .	24th January, 1914.
North-West Frontier Province Gazette	. . . . .	23rd January, 1914.

4 We think that the Bill has not been so altered as to require republication, and we recommend that it be passed as now amended

W S MEYER  
 ALI IMAM  
 C. H. ARMSTRONG  
 G. BARUA.  
 G. M. CHITNAVIS  
 W. H. VINCENT  
 J. H. ABBOTT  
 J. B. BRUNYATE  
 KUSHAL PAL SINGH.  
 L. M. WYNCH  
 E. H. WALSH

*The 31st January, 1914*

[AS AMENDED BY THE SELECT COMMITTEE.]

[Words printed in italics indicate amendments suggested by the Select Committee.]

*A Bill to consolidate and amend the law relating to the grant of loans to Local Authorities.*

WHEREAS it is expedient to consolidate and amend the law relating to the borrowing powers of local authorities; It is hereby enacted as follows:—

Short title and extent. 1. (1) This Act may be called the Local Authorities Loans Act, 1914.

(2) It extends to the whole of British India, including the Sonthal Parganas.

[Section 3, Act XI of 1879.] 2. In this Act, "local authority" means any person legally entitled to the control or management of any local or municipal fund, or legally entitled to impose any cess, rate, duty or tax within any local area;

"funds," used with reference to any local authority, includes any local or municipal fund to the control or management of which such authority is legally entitled, and any cess, rate, duty or tax which such authority is legally entitled to impose, and any property vested in such authority;

"prescribed" means prescribed by rules made under this Act; and

"work" includes a survey, whether incidental to any other work or not.

3. (1) A local authority may, subject to the borrowing powers prescribed conditions, borrow on the security of its funds or any portion thereof for any of the following purposes, namely:—

- [Section 4, Act XI of 1879.] (i) the carrying out of any works which it is legally authorized to carry out,
- [Section 2, Act XII of 1897.] (ii) the giving of relief and the establishment and maintenance of relief works in times of famine or scarcity,
- [17.] (iii) the prevention of the outbreak or spread of any dangerous epidemic disease,
- [17.] (iv) any measures which may be connected with or ancillary to any purposes specified in clauses (ii) and (iii),
- [Of Section 3, Act III of 1904.] (v) the repayment of money previously borrowed in accordance with law:

Provided that nothing in clause (v) shall be deemed to empower a local authority to fix a period for the repayment of any money borrowed thereunder which, when the period fixed for the repayment of the money previously borrowed is taken into account, will exceed the maximum period fixed for the repayment of a loan by or under any enactment for the time being in force.

(2) Nothing in this section shall be deemed to authorize any local authority—

- (a) to borrow or spend money for any purpose for which, under the law for the time being in force, it is not authorized to apply its funds, or
- (b) to borrow money by means of the issue of bills or promissory notes payable within any period not exceeding twelve months.

Power to Governor General in Council to make rules.

4. (1) The Governor General in Council may make rules consistent with this Act as to—

- (i) the nature of the funds on the security of which money may be borrowed;
- (ii) the works for which money may be borrowed;
- (iii) the manner of making applications for permission to borrow money;
- (iv) the inquiries to be made in relation to such loans, and the manner of conducting such inquiries;
- (v) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published;
- (vi) the cases in which the Local Government may make loans without the previous sanction of the Governor General in Council, and the cases in which such previous sanction must be obtained;
- (vii) the cases in which the Local Government may authorize local authorities to take loans from persons other than the Local Government, and the cases in which the previous sanction of the Governor General in Council must be obtained to such loans;
- (viii) the manner of recording and enforcing the conditions on which money is to be borrowed;
- (ix) the manner and time of making or raising loans;
- (x) the inspection of any works carried out by means of loans;
- (xi) the instalments, if any, by which loans shall be repaid, the interest to be charged on loans, and the manner and time of repaying loans and of paying the interest thereon;
- (xii) the sum to be charged against the funds which are to form the security for the loan, as costs in effecting the loan;
- (xiii) the attachment of such funds, and the manner of disposing of or collecting them;
- (xiv) the accounts to be kept in respect of loans;
- (xv) the utilization of unexpended balances of loans either in the reduction in any way of the debt of the local authority, or in carrying out any works which that authority is legally authorized to carry out; and the sanction necessary to such utilization;

and as to all other matters incidental to carrying this Act into effect.

(2) The Governor General in Council may, subject to such conditions and restrictions as he thinks fit, delegate to a Local Government, or to Local Governments generally, all or any of his powers to make rules under sub-section (1).

(3) All rules made under this Act shall be published in the Gazette of India, if made by the Governor General in Council, or, if made by the Local Government in the exercise of a delegated power, in the local official Gazette; and,



on such publication, shall have effect as if enacted in this Act

[Section  
Act XI  
1879]

6. 5. If any money borrowed in accordance with the provisions of this Act, Remedy by attachment of any interest or costs due on any loan not repaid in respect thereof, is or are not repaid according to the conditions of the loan, the Local Government, if itself the lender, may, and, if the Local Government is not the lender, shall, on the application of the lender, attach the funds on the security of which the loan was made. After such attachment, no person, except an officer appointed in this behalf by the Local Government, shall in any way deal with the attached funds, but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interests and costs due in respect thereof, and of all expenses caused by the attachment and subsequent proceedings.

Provided that no such attachment shall defeat

Attachment not to defeat prior charges legally made or prejudice any debt for which the funds attached were previously pledged in accordance with law, but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made.

II of 1910

6. (1) Subject to the provisions of section 26 of the Indian Paper Currency Act, 1910, the local authorities mentioned in Schedule I and any other local authority to which the Governor General in Council may, by notification in the Gazette of India, extend the provisions of this section may, with the previous sanction of the Governor General in Council, borrow money by means of the issue of bills or promissory notes payable within any period, not exceeding twelve months, for any purpose for which such local authority may lawfully borrow money under any law for the time being in force:

Provided that the amount of the bills or promissory notes which may be so issued, shall not exceed, when the amount of the other moneys for the time being borrowed by such local authority is taken into account, the total amount which such local authority is empowered by law to borrow.

(2) The Governor General in Council may, by general or special order, regulate the conditions on which money may be borrowed or repaid under this section.

7. Except as provided by or under this Act, Loans not to be effected except under this Act no local authority shall, for any purpose, borrow money upon, or otherwise charge, its funds, and any contract otherwise made for that purpose after the passing of this Act shall be void.

Provided that nothing herein contained shall be deemed—

[Section  
Act  
1879]

(a) to preclude any local authority from exercising the borrowing powers conferred on it by any special enactment now or hereafter in force, or

(b) to affect the power conferred on any local authority by any such enactment to charge its funds, by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied.

8. The Secretary of State in Council shall be entitled to the remedy mentioned in section 5 for the recovery of any money lent by him to any local authority before the fifth day of September, 1871, and the interest due on such money.

9. The enactments mentioned in Schedule II are repealed to the extent specified in the fourth column thereof.

Repeals  
Provided that all applications, declarations, authorizations, attachments, loans and rules made under any of these enactments shall be deemed to have been made under this Act.

## SCHEDULE I.

*(See section 6.)*

The Corporation of Calcutta.  
 The Commissioners for the Port of Calcutta.  
 The Commissioners for the Port of Chittagong.  
 The Municipal Corporation of the City of Bombay.  
 The Trustees of the Port of Bombay.  
 The Corporation of Madras.  
 The Trustees for the Port of Madras.  
 The Municipal Committee of Rangoon.  
 The Commissioners for the Port of Rangoon.  
 The Municipality of Karachi.  
 The Trustees of the Port of Karachi.  
 The Trustees for the Improvement of the City of Bombay.  
 The Trustees for the Improvement of the City of Calcutta.

## SCHEDULE II.

ENACTMENTS REPEALED.

*(See section 9.)*

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1879	XI	The Local Authorities Loan Act, 1879 . . . . .	So much as is not repealed.
1885	XV	The Local Authorities Loan Act (1879) Amendment Act, 1885.	The whole.
1897	XII	The Local Authorities (Emergency) Loans Act, 1897 . . . . .	So much as is not repealed.
1904	III	The Local Authorities Loan Act, 1904 . . . . .	So much as is not repealed.
1905	I	The Local Authorities Loan (Amendment) Act, 1905 . . . . .	The whole.
1907	V	The Local Authorities Loan (Amendment) Act, 1907 . . . . .	The whole.
1908	VIII	The Local Authorities Loan (Amendment) Act, 1908 . . . . .	The whole.
1912	XI	The Local Authorities (Emergency) Loans (Amendment) Act, 1912.	The whole.

### Distribution of Sections.

Act XI of 1879.		BILL
Section	1	Short title.
"	2	Repeal. See clause 9
"	3	Clause 2
"	4	" 3 (I)
"	5	" 4
"	6	" 5.
"	7	" 4 and clause 5
"	8	" 7
"	9	" 8 (portion of section 9, which is spent, omitted)
Act XV of 1885		
Section	1	Clause 7 (c)
Act XII of 1897.		
Section	1	Short title, etc.
"	2	Clause 3 (I) (ss), (sst), (sr).
"	3	" 4.
"	4	" 5 and clause 4.
"	5	Spent
Act III of 1904		
Section	1	Application Clause 6
"	2	Clause 6
"	3	" 3 (v), proviso
"	4	" 6.
Act I of 1905		
Section	1	Short title.
"	2	Clause 7 (a).
Act V of 1907		
Section	1	Short title.
"	2	Clause 2.
"	3	" 7 (a)
Act VIII of 1908.		
Section	1	Short title.
"	2	Clause 6.
Act XI of 1912.		
Section	1	Short title.
"	2	Clause 4 (I) (vi).
"	3	" 4 (I) (vi)
"	4	" 2

W H VINCENT,  
Secretary to the Government of India



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to modify and add to the provisions of the Copyright Act, 1911, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th February 1914 —

WE, the undersigned, Members of the Select Committee to which the Bill to modify

Paper No. 1 — From the Gramophone Company, Calcutta, dated 2nd October, 1913

Papers No. 2 — From Government, Bihar and Orissa, No 24 R T, dated 1st December, 1913, and enclosures

Papers No. 3 — Endorsement by Government of India, Education Department, No 537, dated 18th November, 1913, from Judicial and Public Department, India Office, London, No J & P 3833, dated 24th October, 1913, from the Vice-President of Publishers' Association of Great Britain and Ireland, dated 17th October, 1913, from the Gramophone Company, Hayes, Middlesex, dated 22nd October, 1913, Endorsement by Government of India, Education Department, No 518, dated 28th November, 1913, from Judicial and Public Department, India Office, London, No J & P 1014, dated 6th November, 1913, and from Secretary, Incorporated Society of Authors, London, dated 4th November, 1913

Paper No. 4 — From Registrar, High Court, Calcutta, No 4458, dated 11th December, 1913

Papers No. 5 — From Chief Commissioner, Coorg, No 2730, dated 3rd November, 1913, Opinion by Mr. Abdul Aziz, Editor 'The Observer,' dated 20th November, 1913, from Chief Commissioner, Ajmer-Merwara, No 1132-C, dated 21st November, 1913, Endorsement by Department of Education, No 543, dated 24th November, 1913, and enclosures, from Chief Commissioner, North-West Frontier Province, No 1978b, dated 22nd November, 1913, from Chief Commissioner, Delhi, No 8691-Legis, dated 22nd November, 1913, and from Government, Burma, No 1179 M-3B-15, dated 25th November, 1913

Papers No. 6 — From Agent to Governor General and Chief Commissioner, Baluchistan, No 778-J, dated 3rd December, 1913, and enclosures, from Chief Commissioner, Assam, No 6431, dated 4th December, 1913, and enclosures, from Government, Madras, No 1151, dated 4th December, 1913, and enclosures, from Chief Commissioner, Central Provinces, No 879-IX-1.46, dated 5th December, 1913, and from Government, Bengal, No 5336, dated 6th December, 1913, and enclosures

Papers No. 7 — Endorsement by Government of India, Education Department, No 521, dated 5th December, 1913, and enclosures, and Despatch to Secretary of State for India, No 7, dated 10th December, 1913

Papers No. 8 — From Government, Punjab, No 1079-(Home-Judicial), dated 22nd December, 1913, and enclosures

Papers No. 9 — Endorsement by Government of India, Education Department, No 10, dated 10th January, 1914, from Sir T. W. Holderness, India Office, No T. and P 4664, dated 18th December 1913, and enclosures.

Papers No. 10 — From Government, United Provinces, No 23, dated 11th January 1914, and enclosures

Papers No. 11 — Endorsement by Government of India, Department of Education, No 33, dated 17th January, 1914, from Sir T. W. Holderness, India Office No J and P 4839, dated 24th December, 1913, and enclosure

Papers No. 12 — Endorsement by Government of India, Department of Education, No 46, dated 20th January, 1914, from the Manager, Gramophone Company, Limited, Calcutta, dated 17th December, 1913

Papers No. 13 — From Government, Bombay, No 591, dated 22nd January, 1914, and enclosures

Papers No. 14 — Endorsement by Government of India, Department of Education, No 48, dated 23rd January, 1914, from Secretary, Bengal Chamber of Commerce, No. 94-1914, dated 16th January, 1914, and enclosures

to provide that all references to arbitration in sub-section (1) of section 24 of the Act shall be read as references to arbitration in accordance with the law in force in British India

3 We have modified clause 4 of the Bill in various particulars. We think that the period of copyright as regards translations, which is prescribed by the Bill for works first published in British India, is too short and we have therefore altered it from five

and add to the provisions of the Copyright Act, 1911, was referred, have considered the Bill and the papers noted in the margin and have now the honour to submit this our Report with the Bill as amended by us annexed thereto

2 We have amended clause 3 of the Bill in two respects. In the first place, we have deleted sub-clause (2) which provided that the reference to the Judicial Committee in section 4 of the Copyright Act should be read in relation to works first published in British India as a reference to the Governor General in Council, as we consider that it is desirable that the power under this section should be exercised by one authority throughout the Empire. Secondly, we have amplified sub-clause (4) so as

to ten years and have deleted the provisions which required the issue of notice upon an author before the production of a translation by any other person. We have, however, provided that, if within this period of ten years the author himself publishes a translation of the work in any particular language, the limitation upon copyright prescribed by this clause shall not apply to translation into that particular language. This amendment is in accordance with the provisions of the Berne Convention. We have added a sub-clause to secure the rights of legal representatives of deceased authors.

4 We have substituted the word "penalties" for the words "summary remedies" in the title of Chapter III in view of the fact that the expression "summary trial" is used in the Code of Criminal Procedure, 1898, to denote a particular procedure in the trial of cases, which might not be applicable to cases under this chapter.

5 We have provided for an appeal against orders of a magistrate regarding the disposal of copies and plates which infringe copyright and have authorised the appellate Court to stay execution of such orders pending consideration of the appeal.

6 In view of the fact that suits relating to infringement of copyright are sometimes of a petty nature, we have given the High Court and the District Judge concurrent jurisdiction in civil suits and proceedings under the Act. It has been pointed out to us that the provisions of clause 13 of the Bill as introduced might cause unnecessary inconvenience and expense in many cases.

7 The publication ordered by the Council has been made as follows —

<i>Gazette</i>	<i>In English</i>	<i>Date.</i>
Gazette of India		13th September, 1913
Fort Saint George Gazette		30th September, 1913
Bombay Government Gazette		25th September, 1913
Calcutta Gazette		24th September, 1913
Bihar and Orissa Government Gazette		24th September, 1913
United Provinces of Agra and Oudh Government Gazette		20th September, 1913
Punjab Government Gazette		19th September, 1913
Burma Gazette		27th September, 1913
Assam Gazette		24th September, 1913
Central Provinces Gazette		20th September, 1913
Coorg District Gazette		2nd October, 1913
Sind Official Gazette		25th September, 1913
North West Frontier Province Gazette		3rd October, 1913

<i>Provinces</i>	<i>Language</i>	<i>Date</i>
Madras	Tamil	25th November, 1913
	Telugu	
	Kanarese	
Bombay	Malayalam	25th December, 1913
	Marathi	
	Gujarati	
United Provinces of Agra and Oudh	Kanarese	31st December, 1913
Burma	Udu	22nd November, 1913
Coorg	Burmese	22nd November, 1913
Sindh	Kanarese	1st December, 1913
	Sindhi	25th December, 1913

8 We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

HARCOURT BUTLER  
 SYED ALI IMAM  
 RUSTOMJI JEHANGIRJI VAKIL  
 G M CHITNAVIS  
 FAZULBHOY CURRIMBHOY.  
 R. SINHA  
 G H B KENRICK.  
 W H VINCENT  
 SRI RAM \*  
 C H KESTEVEN.  
 E H WALSH  
 W F RICE  
 L PORTER  
 JAMES DONALD.

*The 3rd February, 1914*

\* I sign this report reserving the right to move an amendment on the subject of architecture if I consider such a course advisable.

SRI RAM,

NOTE — The Hon'ble Nawab Sayid Muhammad did not attend the meetings of the Select Committee and did not therefore sign the Report.

[BILL AS AMENDED BY THE SELECT COMMITTEE.]

[Words printed in italics indicate amendments suggested by the Select Committee.]

## THE INDIAN COPYRIGHT BILL.

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[BILL AS AMENDED BY THE SELECT COMMITTEE.]

[Words printed in italics indicate amendments suggested by the Select Committee.]

*A Bill to modify and add to the provisions of the Copyright Act, 1911.*

WHEREAS it is expedient to modify and add to the provisions of the Copyright Act, 1911, in its application to British India; It is hereby enacted as follows:—

1 & 2, Geo.  
5, c. 46.

## CHAPTER I.

### PRELIMINARY.

1. (1) This Act may be called the Indian Copyright Act, 1914.  
Short title and extent.

(2) It extends to the whole of British India including British Baluchistan, the District of Angul and the Sonthal Parganas.

2. In this Act, unless there is anything repugnant in the subject or context,—

1 & 2, Geo.  
5, c. 46.

(1) "the Copyright Act" means the Act of Parliament entitled the Copyright Act, 1911: and

(2) words and expressions defined in the Copyright Act have the same meanings as in that Act.

## CHAPTER II.

### CONSTRUCTION AND MODIFICATION OF THE COPYRIGHT ACT.

3. In the application to British India of the Copyright Act (a copy of which is hereby printed in the Act, except such of the provisions thereof as are expressly adaptations. restricted to the United Kingdom, is set out in the First Schedule), the following modifications shall be made, namely:—

(1) the powers of the Board of Trade under section 3 shall, in the case of works first published in British India, be exercised by the Governor General in Council;

(2) the powers of the Board of Trade under section 19 shall, as regards records, perforated rolls and other contrivances, the original plate of which was made in British India, be exercised by the Governor General in Council; and the confirmation of Parliament shall not be necessary to the exercise of any of these powers;

(3) the references in section 19, sub-section (4), and in section 24, sub-section (1), to arbitration shall be read as references to arbitration in accordance with the law for the time being in force in that part of British India in which the dispute occurs;

(4) as regards works the authors whereof were at the time of the making of the works resident in British India, and as regards works first published in British India, the reference in section 22 to the Patents and Designs Act, 1907, shall be construed as a reference to the Indian Patents and Designs Act, 1911, and the reference in the said section to section 86 of the Patents and Designs Act, 1907, shall be construed as a reference to section 77 of the Indian Patents and Designs Act, 1911; 7 Edw. VII, Cap. 29. 11 of 1911.

(5) as regards works first published in British India, the reference in section 24, sub-section (1), proviso (a), to the London Gazette and two London newspapers shall be construed as a reference to the Gazette of India and two newspapers published in British India; and the reference in proviso (b) of the same sub-section of the same section to the 26th day of July, 1910, shall, as regards works, the authors whereof were at the time of the making of the works resident in British India, and as regards works first published in British India, be construed as a reference to the 20th day of October, 1912.

4. (1) In the case of works first published in British India, copyright shall be subject to this limitation that it shall only include the sole right to produce, reproduce, perform or publish a translation of the work for a period of ten years from the date of the first publication of the work:

*Provided that if within the said period the author or any person to whom he has granted permission so to do publishes a translation of any such work in any language copyright in such work as regards the sole right to produce, reproduce, perform or publish a translation in that language shall not be subject to the limitation prescribed in this sub-section.*

(2) For the purposes of sub-section (1) the expression "author" includes the legal representative of a deceased author.

5. In the application of the Copyright Act to Musical works made by resident of, whereof were at the time of the or first published in, making of the works resident in British India, British India, or to musical works first published in British India, the term "musical work" shall, save as otherwise expressly provided by the Copyright Act, mean "any combination of melody and harmony, or either of them, which has been reduced to writing".

6. (1) Copies made out of British India of any work in which copyright subsists which if made in British India would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Chief Customs officer, as defined in the Sea Customs Act, 1878, that he is desirous that such copies should not be imported into British India, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be prohibited imports within the meaning of section 18 of the Sea Customs Act, 1878.

(2) Before detaining any such copies, or taking any further proceedings with a view to the

VIII of 1878.



confiscation thereof, such Chief Customs officer, or any other officer appointed by the Local Government in this behalf, may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself, in accordance with these regulations, that the copies are such as are prohibited by this section to be imported.

(3) The Governor General in Council may, by notification in the Gazette of India, make regulations, either general or special, respecting the detention and confiscation of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and confiscation; and may, by such regulations, determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) Such regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant re-imbursing the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention; and may provide that notices given under the Copyright Act to the Commissioners of Customs and Excise of the United Kingdom, and communicated by that authority to any authority in British India, shall be deemed to have been given by the owner to the said Chief Customs officer.

(6) This section shall have effect as the necessary modification of section 14 of the Copyright Act.

### CHAPTER III.

#### PENALTIES.

Offences in respect of infringing copies. 7. If any person knowingly—

- (a) makes for sale or hire any infringing copy of a work in which copyright subsists; or
  - (b) sells or lets for hire, or by way of trade exposes or offers for sale or hire, any infringing copy of any such work; or
  - (c) distributes infringing copies of any such work, either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or
  - (d) by way of trade exhibits in public any infringing copy of any such work; or
  - (e) imports for sale or hire into British India any infringing copy of any such work;
- he shall be punishable with fine which may extend to twenty rupees for every copy dealt with in contravention of this section, but not exceeding five hundred rupees in respect of the same transaction.

8. If any person knowingly makes, or has in his possession, any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit

causes any such work to be performed in public without the consent of the owner of the copyright, he shall be punishable with fine which may extend to five hundred rupees. Cf. 11 (3), Copyright Act, 1911.

9. If any person, after having been previously convicted of an offence punishable under section 7 or section 8 is subsequently convicted of an offence punishable under either of these sections, he shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

10 (1). The Court before which any offence under this Chapter is tried may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purpose of making infringing copies, be destroyed or delivered up to the owner of the copyright, or otherwise dealt with as the Court may think fit. Cf. 11 (2), Copyright Act, 1911.

(2) Any person affected by an order under subsection (1) may, within thirty days of the date of such order, appeal to the Court to which appeals from the Court making the order ordinarily lie; and such appellate Court may direct that execution of the order be stayed pending consideration of the appeal.

11. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence against this Act.

12. The provisions of this Chapter shall not apply to any case to which section 9 of the Copyright Act, regarding the restrictions on remedies in the case of a work of architecture, applies.

Saving in case of infringement by construction of building.

### CHAPTER IV.

#### MISCELLANEOUS.

13. Every suit or other civil proceeding regarding infringement of copyright shall be instituted and tried in the High Court or the Court of the District Judge. Cf. s. 7, Act XX of 1847.

14. No suit or other civil proceeding instituted after the 30th of October, 1912, regarding infringement of copyright in any book the author whereof was at the time of making the book resident in British India, or of any book first published in British India, shall be dismissed by reason only that the registration of such book had not been effected in accordance with the provisions of the Indian Copyright Act, 1847. Effect of non-registration under Act XX of 1847. XX of 1847.

15. The enactments mentioned in the Second Schedule are hereby repealed to the extent specified in the fourth column thereof.

## THE FIRST SCHEDULE

PORTIONS OF THE COPYRIGHT ACT APPLICABLE  
TO BRITISH INDIA*(See section 3)*

COPYRIGHT ACT, 1911

[1 &amp; 2 Geo 5, Ch 46]

## ARRANGEMENT OF SECTIONS

## PART I

## IMPERIAL COPYRIGHT

*Rights*

## SECTIONS

- 1 Copyright
- 2 Infingement of copyright
- 3 Term of copyright
- 4 Compulsory licences
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*Civil Remedies*

- 3 Civil remedies for infingement of copyright
- 7 Rights of owner against persons possessing or dealing with infinging copies, etc
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- 9 Restriction on remedies in the case of architecture
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*Importation of Copies*

- 14 Importation of copies

*Delivery of Books to Libraries*

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*Special Provisions as to certain Works*

- 16 Works of joint authors
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- 18 Provisions as to Government publications
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- 23 Works of foreign authors first published in parts of His Majesty's dominions to which Act extends
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*Application to British Possessions*

- 25 Application of Act to British dominions
- 26 Legislative powers of self-governing dominions
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- 31 Abrogation of common law rights
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## Chapter 46.

AN ACT TO AMEND AND CONSOLIDATE  
THE LAW RELATING TO COPY-  
RIGHT

[16TH DECEMBER, 1911]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows —

## PART I

## IMPERIAL COPYRIGHT

*Rights.*

1. (1) Subject to the provisions of this Act, copyright shall subsist throughout the parts of His Majesty's dominions to which this Act extends for

the term hereinafter mentioned in every original literary dramatic musical and artistic work, if—

- (a) in the case of a published work, the work was first published within such parts of His Majesty's dominions as aforesaid; and
- (b) in the case of an unpublished work, the author was at the date of the making of the work a British subject or resident within such parts of His Majesty's dominions as aforesaid,

but in no other works, except so far as the protection conferred by this Act is extended by Orders in Council thereunder relating to self-governing dominions to which this Act does not extend and to foreign countries

(2) For the purposes of this Act, "copyright" means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public, if the work is unpublished, to publish the work or any substantial part thereof, and shall include the sole right—

- (a) to produce, reproduce, perform, or publish any translation of the work;
- (b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work,
- (c) in the case of a novel or other non-dramatic work, or of an artistic work to convert it into a dramatic work, by way of performance in public or otherwise,
- (d) in the case of a literary, dramatic, or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered,

and to authorise any such acts as aforesaid

(3) For the purposes of this Act, publication, in relation to any work, means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or the construction of an architectural work of art, but, for the purposes of this provision, the issue of photographs and engravings of works of sculpture and architectural works of art shall not be deemed to be publication of such works

2 (1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright: Provided that the following acts shall not constitute an infringement of copyright—

- (1) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary,

- (ii) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work, provided that he does not thereby repeat or imitate the main design of that work

- (iii) The making or publishing of paintings, drawings, engravings, or photographs of a work of sculpture or artistic craftsmanship, if permanently situate in a public place or building, or the making or publishing of paintings, drawings, engravings or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art

- (iv) The publication in a collection, mainly composed of non-copyright matter, *bona fide* intended for the use of school, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists. Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged

- (v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer, but nothing in this paragraph shall affect the provisions in paragraph (2) as to newspaper summaries

- (vi) The reading or recitation in public by one person of any reasonable extract from any published work

(2) Copyright in a work shall also be deemed to be infringed by any person who—

- (a) sells or lets for hire, or by way of trade exposes or offers for sale or hire, or
- (b) distributes either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright, or
- (c) by way of trade exhibits in public, or
- (d) imports for sale or hire into any part of His Majesty's dominions to which this Act extends,

any work which to his knowledge infringes copyright or would infringe copyright if it had been made within the part of His Majesty's dominions in or into which the sale or hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place.

(3) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.

**3** The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death.

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent on the price at which he publishes the work, and, for the purposes of this proviso, the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

**4** If at any time after the death of the author of a literary, dramatic, or musical work which has been published or performed in public a complaint is made to the Judicial Committee of the Privy Council that the owner of the copyright in the work has refused to republish or to allow the republication of the work or has refused to allow the performance in public of the work, and that by reason of such refusal the work is withheld from the public, the owner of the copyright may be ordered to grant a licence to reproduce the work or perform the work in public, as the case may be, on such terms and subject to such conditions as the Judicial Committee may think fit.

**5** (1) Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein.

Provided that—

(a) where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright;

(b) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical.

(2) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to limitations to the United Kingdom or any self-governing dominion or other part of His Majesty's dominions to which this Act extends, and either for the whole term of the copyright or for any part thereof, and may grant any interest in the right by licence, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorised agent.

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

(3) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee, as respects the right so assigned, and the assignor as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of the copyright, and the provisions of this Act shall have effect accordingly.

#### *Civil Remedies.*

**6** (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

(2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the Court.

(3) In any action for infringement of copyright in any work, the work shall be presumed to be a work in which copyright subsists and the plaintiff shall be presumed to be the owner of the copyright, unless the defendant puts in issue the existence of the copyright, or, as the case may be, the title of the plaintiff, and where any such question is in issue, then—

- (a) if a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work,
- (b) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of copyright therein

**7.** All infringing copies of any work in which copyright subsists, or of any substantial part thereof, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of the possession thereof or in respect of the conversion thereof

**8.** Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves that at the date of the infringement he was not aware and had not reasonable ground for suspecting that copyright subsisted in the work

**9.** (1) Where the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction or interdict to restrain the construction of such building or structure or to order its demolition

(2) Such of the other provisions of this Act as provide that an infringing copy of a work shall be deemed to be the property of the owner of the copyright, or as impose summary penalties, shall not apply in any case to which this section applies

**10.** An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement

\* \* \* \* \*

#### *Importation of copies.*

**14.** (1) Copies made out of the United Kingdom of any work in which copyright subsists which if made in the United Kingdom would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Commissioners of Customs and Excise, that he is desirous that such copies should not be imported into the United Kingdom, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be included in the table of prohibitions and restrictions contained in section forty-two of the Customs Consolidation Act, 1878, and that section shall apply accordingly

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(2) Before detaining any such copies or taking any further proceedings with a view to the forfeiture thereof under the law relating to the Customs, the Commissioners of Customs and Excise may require the regulations under this section, whether as to information, conditions, or other matters, to be complied with, and may satisfy themselves in accordance with those regulations that the copies are such as are prohibited by this section to be imported

(3) The Commissioners of Customs and Excise may make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence

(4) The regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works

(5) The regulations may provide for the informant reimbursing the Commissioners of Customs and Excise all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention, and may provide for notices under any enactment repealed by this Act being treated as notices given under this section

(6) The foregoing provisions of this section shall have effect as if they were part of the Customs Consolidation Act, 1878. Provided that, notwithstanding anything in that Act, the Isle of Man shall not be treated as part of the United Kingdom for the purposes of this section.

(7) This section shall, with the necessary modifications, apply to the importation into a British possession to which this Act extends of copies of works made out of that possession.

#### *Delivery of Books to Libraries*

**15.** (1) The publisher of every book published in the United Kingdom shall, within one month after the publication, deliver, at his own expense, a copy of the book to the trustees of the British Museum who shall give a written receipt for it

(2) He shall also, if written demand is made before the expiration of twelve months after publication, deliver within one month after receipt of that written demand or, if the demand was made before publication, within one month after publication, to some depot in London named in the demand a copy of the book for, or in accordance with the directions of, the authority having the control of each of the following libraries, namely the Bodleian Library, Oxford, the University Library, Cambridge, the Library of the Faculty of Advocates at Edinburgh, and the Library of Trinity College, Dublin, and subject to the provisions of this section the National Library of Wales. In the case of an encyclopædia, newspaper, review, magazine, or work published in a series of numbers or parts, the written demand may include all numbers or parts of the work which may be subsequently published.

(3) The copy delivered to the trustees of the British Museum shall be a copy of the whole book with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and shall be bound, sewed, or stitched together, and on the best paper on which the book is printed.

(4) The copy delivered for the other authorities mentioned in this section shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

(5) The books of which copies are to be delivered to the National Library of Wales shall not include books of such classes as may be specified in regulations to be made by the Board of Trade.

(6) If a publisher fails to comply with this section, he shall be liable on summary conviction to a fine not exceeding five pounds and the value of the book, and the fine shall be paid to the trustees or authority to whom the book ought to have been delivered.

(7) For the purposes of this section, the expression "book" includes every part or division of a book, pamphlet, sheet of letter-press, sheet of music, map, plan, chart or table separately published, but shall not include any second or subsequent edition of a book unless such edition contains additions or alterations either in the letter-press or in the maps, prints, or other engravings belonging thereto.

#### *Special Provisions as to certain Works*

**16. (1)** In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter, and in the provisions of this Act with respect to the grant of

compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

(2) Where, in the case of a work of joint authorship some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if the other author or authors had been the sole author or authors thereof.

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.

(3) For the purposes of this Act, "a work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.

(4) Where a married woman and her husband are joint authors of a work the interest of such married woman therein shall be her separate property.

**17. (1)** In the case of a literary, dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public, nor, in the case of a lecture, been delivered in public, before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the proviso to section three of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

(2) The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author and the manuscript is of a work which has not been published nor performed in public nor delivered in public, shall be *prima facie* proof of the copyright being with the owner of the manuscript.

**18.** Without prejudice to any rights or privileges of the Crown, where any work has, whether before or after the commencement of this Act, been prepared or published by or under the direction or control of His Majesty or any Government department, the copyright in the work shall, subject to any agreement with the author, belong to His Majesty, and in such case shall continue for a period of fifty years from the date of the first publication of the work.

**19. (1)** Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically produced, in like manner as if such contrivances were musical works, but the term of copyright shall be fifty years from the making of the origi-

nal plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts

(2) It shall not be deemed to be an infringement of copyright in any musical work for any person to make within the parts of His Majesty's dominions to which this Act extends, records, perforated rolls or other contrivances by means of which the work may be mechanically performed, if such person proves—

- (a) that such contrivances have previously been made by, or with the consent or acquiescence of, the owner of the copyright in the work, and
- (b) that he has given the prescribed notice of his intention to make the contrivances, and has paid in the prescribed manner, to, or for the benefit of, the owner of the copyright in the work royalties in respect of all such contrivances sold by him, calculated at the rate herein-after mentioned

Provided that—

- (1) nothing in this provision shall authorise any alterations in, or omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question, and
- (u) for the purposes of this provision, a musical work shall be deemed to include any words so closely associated therewith as to form part of the same work, but shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced
- (3) The rate at which such royalties as aforesaid are to be calculated shall—
  - (a) in the case of contrivances sold within two years after the commencement of this Act by the person making the same, be two and one-half per cent, and
  - (b) in the case of contrivances sold as aforesaid after the expiration of that period, be five per cent

on the ordinary retail selling price of the contrivance calculated in the prescribed manner, so however that the royalty payable in respect of a contrivance shall, in no case, be less than a half-penny for each separate musical work in which copyright subsists reproduced thereon, and, where the royalty

calculated as aforesaid includes a fraction of a farthing, such fraction shall be reckoned as a farthing

Provided that, if, at any time after the expiration of seven years from the commencement of this Act, it appears to the Board of Trade that such rate as aforesaid is no longer equitable, the Board of Trade may, after holding a public inquiry, make an order either decreasing or increasing that rate to such extent as under the circumstances may seem just, but any order so made shall be provisional only and shall not have any effect unless and until confirmed by Parliament, but, where an order revising the rate has been so made and confirmed, no further revision shall be made before the expiration of fourteen years from the date of the last revision.

(4) If any such contrivance is made reproducing two or more different works in which copyright subsists and the owners of the copyright therein are different persons, the sums payable by way of royalties under this section shall be apportioned amongst the several owners of the copyright in such proportions as, failing agreement, may be determined by arbitration

(5) When any such contrivances by means of which a musical work may be mechanically performed have been made, then, for the purposes of this section, the owner of the copyright in the work shall, in relation to any person who makes the prescribed inquiries, be deemed to have given his consent to the making of such contrivances if he fails to reply to such inquiries within the prescribed time

(6) For the purposes of this section, the Board of Trade may make regulations prescribing anything which under this section is to be prescribed, and prescribing the mode in which notices are to be given and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, and any such regulations may, if the Board think fit, include regulations requiring payment in advance or otherwise securing the payment of royalties

(7) In the case of musical works published before the commencement of this Act, the foregoing provisions shall have effect, subject to the following modifications and additions—

- (a) The conditions as to the previous making by, or with the consent or acquiescence of, the owner of the copyright in the work, and the restrictions as to alterations in or omissions from the work shall not apply,
- (b) The rate of two and one-half per cent shall be substituted for the rate of five per cent as the rate at which royalties are to be calculated, but no royalties shall be payable in respect of contrivances sold before the first day of July, nineteen hundred and thirteen, if contrivances reproducing the same work had been lawfully made, or placed on sale, within the parts of His Majesty's dominions to which this Act extends before the first day of July, nineteen hundred and ten:



(c) Notwithstanding any assignment made before the passing of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or authorising the making, of contrivances by means of which the work may be mechanically performed shall belong to the author or his legal personal representatives and not to the assignees, and the royalties aforesaid shall be payable to, and for the benefit of, the author of the work or his legal personal representatives

(d) The saving contained in this Act of the rights and interests arising from, or in connexion with action taken before the commencement of this Act shall not be construed as authorising any person who has made contrivances by means of which the work may be mechanically performed to sell any such contrivances, whether made before or after the passing of this Act, except on the terms and subject to the conditions laid down in this section.

(e) Where the work is a work on which copyright is conferred by an Order in Council relating to a foreign country, the copyright so conferred shall not, except to such extent as may be provided by the Order, include any rights with respect to the making of records, perforated rolls, or other contrivances by means of which the work may be mechanically performed

(5) Notwithstanding anything in this Act where a record, perforated roll, or other contrivance by means of which sounds may be mechanically reproduced has been made before the commencement of this Act, copyright shall, as from the commencement of this Act, subsist therein in like manner and for the like term as if this Act had been in force at the date of the making of the original plate from which the contrivance was directly or indirectly derived:

Provided that—

(i) the person who, at the commencement of this Act, is the owner of such original plate shall be the first owner of such copyright, and

(ii) nothing in this provision shall be construed as conferring copyright in any such contrivance if the making thereof would have infringed copyright in some other such contrivance, if this provision had been in force at the time of the making of the first-mentioned contrivance.

**20.** Notwithstanding anything in this Act, it shall not be an infringement of copyright in an address of a political nature delivered at a public meeting to publish a report thereof in a newspaper

**21.** The term for which copyright shall subsist in photographs shall be fifty years from the making of the original negative from which the photograph was directly or indirectly derived, and the

person who was owner of such negative at the time when such negative was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts

**22.** (1) This Act shall not apply to designs capable of being registered under the Patents and Designs Act, 1907, except designs which, though capable of being so registered, are not used or intended to be used as models or patterns to be multiplied by any industrial process

(2) General rules under section eighty-six of the Patents and Designs Act, 1907, may be made for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid

**23.** If it appears to His Majesty that a foreign country does not give, or has not undertaken to give, adequate protection to the works of British authors, it shall be lawful for His Majesty by Order in Council to direct that such of the provisions of this Act as confer copyright on works first published within the parts of His Majesty's dominions to which this Act extends, shall not apply to works published after the date specified in the Order, the authors whereof are subjects or citizens of such foreign country, and are not resident in His Majesty's dominions, and thereupon those provisions shall not apply to such works

**24.** (1) Where any person is immediately before the commencement of this Act entitled to any such right in any work as is specified in the first column of the First Schedule to this Act, or to any interest in such a right, he shall, as from that date, be entitled to the substituted right set forth in the second column of that schedule, or to the same interest in such a substituted right, and to no other right or interest, and such substituted right shall subsist for the term for which it would have subsisted if this Act had been in force at the date when the work was made and the work had been one entitled to copyright thereunder.

Provided that—

(a) if the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has, before that date, assigned the right or granted any interest therein for the whole term of the right, then at the date when, but for the passing of this Act, the right would have expired the substituted right conferred by this section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act



and then subsisting shall determine, but the person who immediately before the date at which the right would so have expired was the owner of the right or interest shall be entitled at his option either—

- (2) on giving such notice as hereinafter mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration, or
- (22) without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore subject to the payment, if demanded by the author within three years after the date at which the right would have so expired, of such royalties to the author as, failing agreement, may be determined by arbitration, or, where the work is incorporated in a collective work and the owner of the right or interest is the proprietor of that collective work, without any such payment,

The notice above referred to must be given not more than one year nor less than six months before the date at which the right would have so expired, and must be sent by registered post to the author, or, if he cannot with reasonable diligence be found, advertised in the London Gazette and in two London newspapers,

- (6) where any person has, before the twenty-sixth day of July nineteen hundred and ten, taken any action whereby he has incurred any expenditure or liability in connexion with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the passing of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connexion with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as failing agreement, may be determined by arbitration

(2) For the purposes of this section, the expression "author" includes the legal personal representatives of a deceased author

(3) Subject to the provisions of section nineteen, sub-sections (7) and (8) and of section thirty-three of this Act, copyright shall not subsist in any work made before the commencement of this Act, otherwise than under, and in accordance with, the provisions of this section.

#### *Application to British Possessions.*

**25** (1) This Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, shall extend throughout His Majesty's dominions. Provided that it shall not extend to a self-governing dominion, unless declared by the Legislature of that dominion to be in force therein either without any modifications or additions, or with such modifications and additions relating exclusively to procedure and remedies, or necessary to adapt this Act to the circumstances of the dominion, as may be enacted by such Legislature

(2) If the Secretary of State certifies by notice published in the London Gazette that any self-governing dominion has passed legislation under which works, the authors whereof were at the date of the making of the works British subjects resident elsewhere than in the dominion or (not being British subjects) were resident in the parts of His Majesty's dominions to which this Act extends, enjoy within the dominion rights substantially identical with those conferred by this Act, then, whilst such legislation continues in force, the dominion shall, for the purposes of the rights conferred by this Act, be treated as if it were a dominion to which this Act extends, and it shall be lawful for the Secretary of State to give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country, under the law of the dominion, differ from those under this Act

**26** (1) The Legislature of any self-governing dominion may, at any time, repeal all or any of the enactments relating to copyright passed by Parliament (including this Act) so far as they are operative within that dominion: Provided that no such repeal shall prejudicially affect any legal rights existing at the time of the repeal, and that, on this Act or any part thereof being so repealed by the Legislature of a self-governing dominion, that dominion shall cease to be a dominion to which this Act extends

(2) In any self-governing dominion to which this Act does not extend the enactments repealed by this Act shall, so far as they are operative in that dominion, continue in force until repealed by the Legislature of that dominion

(3) Where His Majesty in Council is satisfied that the law of a self-governing dominion to which this Act does not extend provides adequate protection within the dominion for the works (whether published or unpublished) of authors who at the time of the making of the work were British subjects resident elsewhere than in that dominion, His Majesty in Council may, for the purpose of giving reciprocal protection, direct that this Act, except such parts (if any) thereof as may be specified in the Order, and subject to any conditions contained therein, shall, within the parts of His Majesty's dominions to which this Act extends, apply to works the authors whereof were, at the time of the making of the work, resident within the first-mentioned dominion, and to works

first published in that dominion, but, save as provided by such an Order, works the authors whereof were resident in a dominion to which this Act does not extend shall not, whether they are British subjects or not, be entitled to any protection under this Act except such protection as is by this Act conferred on works first published within the parts of His Majesty's dominions to which this Act extends

Provided that no such Order shall confer any rights within a self-governing dominion, but the Governor in Council of any self-governing dominion to which this Act extends, may, by Order, confer within that dominion the like rights as His Majesty in Council is, under the foregoing provisions of this sub-section, authorised to confer within other parts of His Majesty's dominions.

For the purposes of this sub-section, the expression "a dominion to which this Act extends" includes a dominion which is for the purposes of this Act to be treated as if it were a dominion to which this Act extends

**27.** The Legislature of any British possession to which this Act extends may modify or add to supplemental legislation any of the provisions of this Act in its application to the possession, but, except so far as such modifications and additions relate to procedure and remedies, they shall apply only to works the authors whereof were, at the time of the making of the work, resident in the possession, and to works first published in the possession.

**28.** His Majesty may, by Order in Council, extend this Act to any territories under his protection and to Cyprus, and, on the making of any such Order, this Act shall, subject to the provisions of the Order, have effect as if the territories to which it applies or Cyprus were part of His Majesty's dominions to which this Act extends

## PART II

### INTERNATIONAL COPYRIGHT

**29.** (1) His Majesty may, by Order in Council, direct that this Act (except such parts, if any, thereof as may be specified in the Order) shall apply—

- (a) to works first published in a foreign country to which the Order relates, in like manner as if they were first published within the parts of His Majesty's dominions to which this Act extends,
- (b) to literary, dramatic, musical, and artistic works, or any class thereof, the authors whereof were at the time of the making of the work subjects or citizens of a foreign country to which the Order relates, in like manner as if the authors were British subjects,

- (c) in respect of residence in a foreign country to which the Order relates, in like manner as if such residence were residence in the parts of His Majesty's dominions to which this Act extends,

and thereupon, subject to the provisions of this Part of this Act and of the Order, this Act shall apply accordingly

Provided that—

- (i) before making an Order in Council under this section in respect of any foreign country (other than a country with which His Majesty has entered into a convention relating to copyright), His Majesty shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to His Majesty expedient to require for the protection of works entitled to copyright under the provisions of Part I of this Act,
- (ii) the Order in Council may provide that the term of copyright within such parts of His Majesty's dominions as aforesaid shall not exceed that conferred by the law of the country to which the Order relates,
- (iii) the provisions of this Act as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the Order,
- (iv) the Order in Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities (if any) as may be prescribed by the Order,
- (v) in applying the provisions of this Act as to ownership of copyright, the Order in Council may make such modifications as appear necessary having regard to the law of the foreign country;
- (vi) in applying the provisions of this Act as to existing works, the Order in Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of section five of the International Copyright Act, 1886.

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(2) An Order in Council under this section may extend to all the several countries named or described therein

**30.** (1) An Order in Council under this Part of this Act shall apply to all His Majesty's dominions to which this Act extends except self-governing dominions and any other possession specified in the Order with respect to which it appears to His Majesty expedient that the Order should not apply,

(2) The Governor in Council of any self-governing dominion to which this Act extends may, as respects that dominion, make the like Orders as under this Part of this Act His Majesty in Council is authorised to make with respect to His Majesty's dominions other than self-governing dominions, and the provisions of this Part of this Act shall, with the necessary modifications, apply accordingly

(3) Where it appears to His Majesty expedient to except from the provisions of any Order any part of his dominion, not being self-governing dominion, it shall be lawful for His Majesty by the same or any other Order in Council to declare that such Order and this Part of this Act shall not, and the same shall not, apply to such part, except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order

### PART III

#### SUPPLEMENTAL PROVISIONS

**31.** No person shall be entitled to copyright Abrogation of com- or any similar right in any mon law rights literary, dramatic, musical, or artistic work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act, or of any other statutory enactment for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence

**32.** (1) His Majesty in Council may make Provisions as to Orders Orders for altering, revoking, or varying any Order in Council made under this Act, or under any enactments repealed by this Act, but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests

(2) Every Order in Council made under this Act shall be published in the *London Gazette* and shall be laid before both Houses of Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act.

**33.** Nothing in this Act shall deprive any of Saving of university the universities and colleges mentioned in the Copyright Act, 1775, of any copyright they already possess under that Act, but the remedies and penalties for infringement of any such copyright shall be under this Act and not under that Act

**34.** There shall continue to be charged on, and paid out of, the Consolidated Fund of the United Kingdom such annual compensation as was immediately before the commencement of this Act payable in pursuance of any Act as compensation to a library for the loss of the right to receive gratuitous copies of books

Provided that this compensation shall not be paid to a library in any year, unless the Treasury are satisfied that the compensation for the previous

year has been applied in the purchase of books for the use of and to be preserved in the library

**35** (1) In this Act, unless the context otherwise requires,—

Interpretation

"Literary work" includes maps, charts, plans, tables, and compilations,

"Dramatic work" includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character;

"Artistic work" includes works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs,

"Work of sculpture" includes casts and models,

"Architectural work of art" means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, provided that the protection afforded by this Act shall be confined to the artistic character and design, and shall not extend to processes or methods of construction,

"Engravings" include etchings, lithographs, wood-cuts, prints, and other similar works, not being photographs,

"Photograph" includes photo-lithograph and any work produced by any process analogous to photography,

"Cinematograph" includes any work produced by any process analogous to cinematography,

"Collective work" means—

(a) an encyclopaedia, dictionary, year book, or similar work,

(b) a newspaper, review, magazine, or similar periodical, and

(c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated,

"Infringing," when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation, made, or imported in contravention of the provisions of this Act,

"Performance" means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument,

"Delivery," in relation to a lecture, includes delivery by means of any mechanical instrument:

"Plate" includes any stereotype or other plate, stone, block, mould, matrix transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made,

"Lecture" includes address, speech, and sermon,

"Self-governing dominion" means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland

(2) For the purposes of this Act (other than those relating to infringements of copyright), a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public, or delivered in public, without the consent or acquiescence of the author, his executors, administrators or assigns

(3) For the purposes of this Act, a work shall be deemed to be first published within the parts of His Majesty's dominions to which this Act extends, notwithstanding that it has been published simultaneously in some other place, unless the publication in such parts of His Majesty's dominions as aforesaid is colourable only and is not intended to satisfy the reasonable requirements of the public, and a work shall be deemed to be published simultaneously in two places if the time between the publication in one such place and the publication in the other place does not exceed fourteen days, or such longer period as may, for the time being, be fixed by Order in Council

(4) Where, in the case of an unpublished work, the making of a work has extended over a considerable period, the conditions of this Act conferring copyright shall be deemed to have been complied with, if the author was, during any substantial part of that period, a British subject or a resident within the parts of His Majesty's dominions to which this Act extends.

(5) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in the parts of His Majesty's dominions to which this Act extends if he is domiciled within any such part

**36.** Subject to the provisions of this Act, the enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule

Provided that this repeal shall not take effect in any part of His Majesty's dominions until this Act comes into operation in that part.

**37.** (1) This Act may be cited as the Copyright Act, 1911

Short title and commencement

(2) This Act shall come into operation—

(a) in the United Kingdom, on the first day of July nineteen hundred and twelve or such earlier date as may be fixed by Order in Council,

- (b) in a self-governing dominion to which this Act extends, at such date as may be fixed by the Legislature of that dominion,
- (c) in the Channel Islands, at such date as may be fixed by the States of those islands respectively;
- (d) in any other British possession to which this Act extends, on the proclamation thereof within the possession by the Governor

## SCHEDULES.

### FIRST SCHEDULE

Section

#### EXISTING RIGHTS

Existing Right.	Substituted Right
(a) <i>In the case of Works other than Dramatic and Musical Works</i>	
Copyright	Copyright as defined by this Act *
(b) <i>In the case of Musical and Dramatic Works</i>	
Both copyright and performing right	Copyright as defined by this Act *
Copyright, but not performing right	Copyright as defined by this Act, except the sole right to perform the work or any substantial part thereof in public
Performing right, but not copyright	The sole right to perform the work in public, but none of the other rights comprised in copyright as defined by this Act

\*In the case of an essay, article, or portion forming part of and first published in a review, magazine, or other periodical or work of a like nature, the right shall be subject to any right of publishing the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have become entitled under section eighteen of the Copyright Act, 1842

For the purposes of this Schedule the following expressions, where used in the first column thereof, have the following meanings—

"Copyright," in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date and statutory copyright wherein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work,

"Performing right," in the case of a work which has not been performed in public before the commencement of this Act, includes the right at common law (if any) to restrain the performance thereof in public,

Section 36.

## SECOND SCHEDULE.

## ENACTMENTS REPEALED.

Section and Chapter.	Short Title.	Extent of Repeal.
8 Geo. 2, c. 13	The Engraving Copyright Act, 1734	The whole Act.
7 Geo. 3, c. 38	The Engraving Copyright Act, 1767	Ditto.
15 Geo. 3, c. 53	The Copyright Act, 1775	Ditto.
17 Geo. 3, c. 57	The Prints Copyright Act, 1777	Ditto.
54 Geo. 3, c. 56	The Sculpture Copyright Act, 1814	Ditto.
3 & 4 Will. 4, c. 15.	The Dramatic Copyright Act, 1833	Ditto.
5 & 6 Will. 4, c. 66.	The Lectures Copyright Act, 1835	Ditto.
6 & 7 Will. 4, c. 60.	The Prints and Engravings Copyright (Ireland) Act, 1836.	Ditto.
6 & 7 Will. 4, c. 110.	The Copyright Act, 1836	Ditto.
5 & 6 Vict., c. 46	The Copyright Act, 1842	Ditto.
7 & 8 Vict., c. 12	The International Copyright Act, 1844	Ditto.
10 & 11 Vict., c. 66.	The Colonial Copyright Act, 1847	Ditto.
15 & 16 Vict., c. 12.	The International Copyright Act, 1852	Ditto.
25 & 26 Vict., c. 68.	The Fine Arts Copyright Act, 1862	Sections one to six. In section eight the words "and pursuant to any Act for the protection of copyright engravings," and "and in any such Act as aforesaid." Sections nine to twelve.
38 & 39 Vict., c. 12.	The International Copyright Act, 1875	The whole Act.
39 & 40 Vict., c. 36.	The Customs Consolidation Act, 1876	Section forty-two, from "Books wherein" to "such copyright will expire." Sections forty-four, forty-five, and one hundred and fifty-two.
45 & 46 Vict., c. 40.	The Copyright (Musical Compositions) Act, 1882.	The whole Act.
40 & 50 Vict., c. 33.	The International Copyright Act, 1886	"Ditto.
51 & 52 Vict., c. 17.	The Copyright (Musical Compositions) Act, 1888.	Ditto.
52 & 53 Vict., c. 42.	The Revenue Act, 1889	Section one, from "Books first published" to "as provided in that section."

ENACTMENTS REPEALED—*contd.*

Section and Chapter.	Short Title	Extent of Repeal.
8 Edw. 7, c. 36.	The Musical Copyright Act, 1906	In section three the words "and which has been registered in accordance with the provisions of the Copyright Act, 1842, or of the International Copyright Act, 1844," which registration may be effected notwithstanding anything in the International Copyright Act, 1898."

## THE SECOND SCHEDULE.

## REPEAL OF ENACTMENTS.

(See section 15.)

Year.	No.	Short Title.	Extent of Repeal.
1847	XX	The Indian Copyright Act, 1847.	So much as has not already been repealed.
1867	XXV	The Press and Registration of Books Act, 1867.	In section 18 the following words, namely:—"Every registration under this section shall, upon the payment of the sum of two rupees to the office keeping the said Catalogue, be deemed to be an entry in the Book of Registry kept under Act No. XX of 1847 (for the encouragement of learning in the territories subject to the government of the East India Company, by the defining and providing for the enforcement of the right called copyright therein); and the provisions contained in that Act as to the said Book of Registry shall apply <i>mutatis mutandis</i> to the said Catalogue."
1878	VIII	The Sea Customs Act, 1878.	Clause (a) of section 18.

W. H. VINCENT,  
Secretary to the Government of India.



GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Provincial Small Cause Courts Act, 1887, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th February 1914 :—

- We, the undersigned, Members of the Select Committee to which the Bill to amend the Provincial Small Cause Courts Act, 1887, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report with the Bill as amended by us annexed thereto.
- Papers No 1 —From Chief Commissioner, Coorg, No 365, dated 27th October, 1913, from Agent to Governor General and Chief Commissioner, Baluchistan, No 714 J, dated 6th November, 1913, from Chief Commissioner, Central Provinces, No 2153-V 45, dated 17th November, 1913, from Chief Commissioner, Ajmer-Merwara, No 1181 C, dated 21st November, 1913, from Chief Commissioner, North-West Frontier Province, No 1980 C, dated 24th November, 1913, from Government of Burma, No 1169—M-L 23, dated 25th November, 1913, from Government, United Provinces, No 1555, dated 28th November, 1913, from Chief Commissioner, Assam, No 6275 L, dated 29th November, 1913, from Chief Commissioner, Delhi, No 8843, dated 1st December, 1913, from Registrar, High Court, Calcutta, No 4890, dated 3rd December, 1913
- Papers No 2 —From Government, Madras, No 2458, dated 1st December, 1913, and enclosures, from Government, Bihar and Orissa, No 28 R T, dated 2nd December, 1913, and from Government, Punjab, No 974 (Home—Judl), dated 8th November, 1913
- Papers No 3 —From Government, Bombay, No. 8904, dated 17th December, 1913, and enclosures
- Papers No 4 —From Government, Bengal, No 4993 J, dated 19th December, 1913, and enclosures
- Papers No 5 —From Government, Bengal, No. 5177-J, dated 30th December, 1913, and enclosure

2 We have provided in clause 2 (1) and clause 3 that a suit of the nature mentioned in the proposed item (22) of article 35 or in the proposed article 43A of the Second Schedule of the Provincial Small Cause Courts Act, 1887, should be excluded from the cognizance of Provincial Small Cause Courts whether the act in respect of which the suit is brought is, or save for the general exceptions contained in Chapter IV of the Penal Code would be, an offence punishable under Chapter XVII of the Code. We have also made a drafting amendment in Sub-clause (2) of Clause 2

3 The publication ordered by the Council has been made as follows :—

<i>In English</i>		<i>Date.</i>
<i>Gazette</i>		
Gazette of India	.	13th September, 1913.
Fort Saint George Gazette	.	23rd September, 1913.
Bombay Government Gazette	.	18th September, 1913.
Calcutta Gazette	.	24th September, 1913.
Bihar and Orissa Government Gazette	.	24th September, 1913.
United Provinces of Agra and Oudh Government Gazette	.	20th September, 1913.
Punjab Government Gazette	.	10th September, 1913.
Burma Gazette	.	25th October, 1913.
Assam Gazette	.	24th September, 1913.
Central Provinces Gazette	.	20th September, 1913.
Coorg District Gazette	.	2nd October, 1913.
Sind Official Gazette	.	25th September, 1913.
North-West Frontier Province Gazette	.	26th September, 1913.

<i>In the Vernaculars</i>		<i>Date.</i>
<i>Province.</i>	<i>Language.</i>	
Madras	Tamil	} 14th October, 1913.
	Telugu	
	Kanarese	
	Malayalam	
Bombay	Marathi	} 30th October, 1913.
	Gujrati	
	Kanarese	
United Provinces of Agra and Oudh	Urdu	1st November, 1913.
Punjab	Urdu	26th September, 1913.
Burma	Burmese	4th October, 1913.
Coorg	Kanarese	1st November, 1913.
Sindh	Sindhi	6th November, 1913.

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4. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

R. H. CRADDOCK.  
SYED ALI IMAM.  
MAUNG MYE.  
S. R. ARTHUR.  
C. VIJIARAGHAVACHARIAR.  
GHANASYAM BARUA.  
W. H. VINCENT.  
H. WHEELER.  
G. H. B. KENRICK.  
SRI RAM.  
MANINDRA CHANDRA NANDI.  
W. H. COBB.  
H. M. LAURIE.

*The 3rd February, 1914.*

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NOTE.—The Hon'ble Raja Jai Chand and the Hon'ble Mr. Das did not attend the meetings of the Select Committee and did not therefore sign the Report.



[AMENDED BY THE SELECT COMMITTEE]

[Words printed in italics indicate amendments suggested by the Select Committee]

*A Bill to amend the Provincial Small Cause Courts Act, 1887*

IX of 1887

WHEREAS it is expedient to amend the Provincial Small Cause Courts Act, 1887, It is hereby enacted as follows —

1 This Act may be called the Provincial Small Cause Courts (Amendment) Act, 1914

IX of 1887

2 In article 35 of *the Second Schedule* of the Provincial Small Cause Courts Act, 1887 (hereinafter called the said Act), the following amendments shall be made, namely —

(1) After item (2), the following item shall be inserted —

"(12) for an act which is, or, save for the provisions of Chapter IV of the Indian Penal Code, would be, an offence punishable under Chapter XVII of the said Code" XLV

(2) For item (9) the following shall be substituted, namely —

"(1) for illegal, improper or excessive distress, attachment or search, or for trespass committed in, or damage caused by, the illegal or improper execution of any distress, search or legal process"

3 After article 48 of the same Schedule of the said Act, the following article shall be inserted, namely —

Insertion of new article 48-A Schedule II, Act IX of 1887

"(48-A) a suit to recover property obtained by an act which is, or, save for the provisions of Chapter IV of the Indian Penal Code, would be, an offence punishable under Chapter XVII of the said Code" XLV

W H VINCENT,

Secretary to the Government of India



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to decentralize and otherwise to facilitate the administration of certain enactments was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th February 1914 —

We, the undersigned. Members of the Select Committee to which the Bill to decentralize and otherwise to facilitate the administration of certain enactments was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Papers No 1 — From Chief Commissioner, Delhi, No 1895, dated 23rd October, 1913, and enclosure, from Chief Commissioner, Coorg, No 2636, dated 23rd October, 1913, from Agent to Governor General and Chief Commissioner, Baluchistan, No 667J, dated 30th October, 1913, from Chief Commissioner, Ajmer-Merwara, No 1130C, dated 21st November, 1913, from Chief Commissioner, Assam, No 6172L, dated 8th December, 1913, and from Chief Commissioner, North-West Frontier Province, No 2097C, dated 10th December, 1913

Papers No. 2 — From Government, Burma, No 380—1 D-4, dated 11th December, 1913, from Government, United Provinces, No 1964, dated 17th December, 1913, and enclosure, and No 1974, dated 18th December, 1913

Paper No 3 — From Chief Commissioner, Central Provinces, No 2450—V.—4-6, dated 19th December, 1913

Papers No 4 — From Government, Bihar and Orissa, No 1086J, dated 16th December, 1913, and from Registrar, High Court, Calcutta, No 4704, dated 22nd December, 1913

Papers No 5 — From Government, Punjab, No 1101 (Home Judicial), dated 27th December, 1913, and enclosures

Papers No 6 — From Government, Madras, No 1607, dated 26th December, 1913, and enclosures

Papers No 7 — From Government, Bengal, No 3040, dated 30th December, 1913, and enclosures

Papers No 8 — From Government, Bombay, No 486, dated 16th January, 1914, and enclosures

Papers No 9 — From Government, Bengal, No 712, dated 20th January, 1914 and enclosures.

2. In the Schedule to the Bill we have omitted the references to the Bengal Alluvion and Diluvion Act, IX of 1847, and to the Cattle Trespass Act, I of 1871, as considerable difference of opinion is disclosed by the opinions as to the amendments effected in these Acts. We have also omitted the reference to the Dekkhan Agriculturists' Relief Act, XVII of 1879, as the Local Government proposes to deal with that Act in a more complete manner in its own Council. We have accepted the view that the Ancient Monuments Preservation Act, VII of 1904, affords no scope for delegation, and we have struck out all references to that Act in the Schedule. We have also made certain minor changes in the Schedule as the result of the opinions which have been placed before us.

3. The publication ordered by the Council has been made as follows :—

<i>Gazette.</i>	<i>In English.</i>	<i>Date.</i>
Gazette of India . . . . .		20th September, 1913.
Fort Saint George Gazette . . . . .		7th October, 1913.
Bombay Government Gazette . . . . .		2nd October, 1913.
Calcutta Gazette . . . . .		1st October, 1913.
Bihar and Orissa Government Gazette . . . . .		1st October, 1913.
United Provinces Gazette . . . . .		27th September, 1913.
Punjab Government Gazette . . . . .		26th September, 1913.
Burma Gazette . . . . .		4th October, 1913.
Central Provinces Gazette . . . . .		27th September, 1913.
Assam Gazette . . . . .		1st October, 1913.
Coorg District Gazette . . . . .		2nd October, 1913.
Sind Official Gazette . . . . .		2nd October, 1913.
North-West Frontier Province Gazette . . . . .		3rd October, 1913.

*In the Vernaculars.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras . . . . .	Tamil . . . . .	2nd December, 1913.
	Telugu . . . . .	2nd December, 1913.
	Hindustani . . . . .	26th November, 1913.
	Kanarese . . . . .	2nd December, 1913.
	Malayalam . . . . .	2nd December, 1913.
Bombay . . . . .	Marathi . . . . .	} 27th November, 1913.
	Gujarathi . . . . .	
	Kanarese . . . . .	
United Provinces Gazette . . . . .	Urdu . . . . .	22nd November, 1913.
Punjab . . . . .	Urdu . . . . .	5th December, 1913.
Burma . . . . .	Burmese . . . . .	8th November, 1913.
Coorg . . . . .	Kanarese . . . . .	2nd January, 1914.
Sindh . . . . .	Sindhi . . . . .	27th November, 1913.

4. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

R. H. CRADDOCK.  
 SYED ALI IMAM.  
 G. M. CHITNAVIS.  
 UMAR HAYAT.  
 H. WHEELER.  
 R. E. ENTHOVEN.  
 E. D. MACLAGAN.  
 W. F. RICE.  
 L. PORTER.

*The 3rd February, 1914.*

*Note*—The Hon'ble Sir Ibrahim Rahimtoola, the Hon'ble Mr. Huda, the Hon'ble Mr. Rama Rayaningar, the Hon'ble Mr. Malaviya, the Hon'ble Mr. Sita Nath Ray and the Hon'ble Mr. Brunyate did not attend the Select Committee and have therefore not signed the report.

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[AS AMENDED BY THE SELECT COMMITTEE.]

[Words printed in italics indicate amendments suggested by the Select Committee.]

*A Bill to decentralize and otherwise to facilitate the administration of certain enactments.*

WHEREAS it is expedient to decentralize and otherwise to facilitate the administration of certain enactments; It is hereby enacted as follows :—

1. This Act may be called the Decentralization Act, 1914.

2. The enactments specified in the third column of the Schedule are hereby amended to the extent and in the manner specified in the fourth column thereof.

3. Any appointment, notification, order, scheme, rule, form or bye-law made or issued by an authority for the making or issuing of which a new authority is substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made or issued by such new authority unless and until superseded by an appointment, notification, order, scheme, rule, form or bye-law made or issued by such new authority.

## THE SCHEDULE

## PART I.

*Acts of the Governor General of India in Council*

Year	No.	Short title	Amendments.
1859	XI	The Bengal Land Revenue Sales Act, 1859.	<p>1 In section 19 for the words "Board of Revenue" substitute the word "Commissioner" and for the word "they" the word "he."</p> <p>2 In section 29 omit the words "if they see cause may recommend to the Local Government to annul the sale, and the Local Government in any such case"</p> <p>3 In section 32 for the word "Government," where that word occurs for the first time, substitute the words "the Board of Revenue"</p> <p>4 In section 40 omit the words "or the Local Government"</p>
"	XII	The Calcutta Pilots Act, 1859	In section 17 omit the words "with the sanction of the Governor General in Council" and the words "and sanctioned"
"	XXIV	The Madras District Police Act, 1859	<p>1. In section 5 omit the words "and who shall receive such salary as the Governor General of India in Council shall allow"</p> <p>2 In section 8 for the words "with the sanction" substitute the words "subject to the control."</p>
1861	V	The Police Act, 1861 . . . .	In section 2 for the word "sanction" substitute the word "control"
1868	XXIII	The Waste-lands (Claims) Act, 1868	<p>1 In section 5 omit the words "Board of Revenue or other" and insert after the word "authority," where that word occurs for the first time, the words "to which he is immediately subordinate" and omit the words "Board or other," wherever these words occur in the section</p> <p>2. In sections 4 and 10 omit the words "by the Local Government"</p> <p>3. After section 23 insert the following section —</p> <p style="text-align: center;"><i>"23A. In a province for which there is a Board of Revenue or a Financial Commissioner, the powers and duties of the Local Government under sections 6, 10, 22 and 23 may be exercised by such Board or Financial Commissioner, as the case may be."</i></p>
1872	IV	The Punjab Laws Act, 1872 . . . .	<p>1. In section 39C for the words "with the previous sanction" substitute the words "subject to the control"</p> <p>2. In section 60 A for the word "No" substitute the word "All" and for the word "valid" substitute the words "subject to the control of the Governor General in Council and no such rules shall be valid" and omit clause (c).</p>

## THE SCHEDULE

## PART I

*Acts of the Governor General of India in Council—contd*

Year	No	Short title	Amendments
1873	III	The Madras Civil Courts Act, 1873 . . .	<p>1. In sections 3 and 4 omit the provisos.</p> <p>2 In section 6 omit the words "or whenever the Governor General in Council has sanctioned an addition to the number of District Judges or Subordinate Judges under the provisions of section 3 or section 4"</p> <p>3. In section 7 omit the words "or whenever the Governor General in Council has sanctioned an addition to the number of District Munsifs under the provisions of section 4"</p> <p>4 For section 24A the following section shall be substituted —</p> <p>"24A (1) The High Court may transfer all or any of the <i>Transfer of ministerial officers</i> ministerial officers of any Civil Court subject to its superintendence to any other such Court</p> <p>"(2) The District Judge may transfer all or any of the ministerial officers of any Civil Court under his control to any other such Court"</p> <p>5 In section 28 for the words "Local Government" substitute the words "High Court and omit the word, "rupees fifty or on the recommendation of the High Court up to any amount not exceeding"</p>
	VIII	The Northern India Canal and Drainage Act, 1873	<p>1. In section 65 omit the words "with the previous sanction of the Governor General in Council"</p> <p>2 In section 75 for the words "with the previous sanction" substitute the words "subject to the control" and for the word, "with the like sanction" substitute the words "subject to the like control"</p>
1874	IX	The European Vagrancy Act, 1874 . . .	<p>1 In section 11 omit the words "with the previous sanction of the Governor General in Council"</p> <p>2 In section 14 for the words "with the previous sanction" substitute the words "subject to the control"</p> <p>3 In section 36 for the words "the Governor General in Council" substitute the words "the Local Government subject to the control of the Governor General in Council" and for the words "Gazette of India" substitute the words "local official Gazette"</p>
1876	VI	The Chota Nagpur Incumbered Estates Act, 1876	In section 19 after the word "may," where that word occurs for the first time, insert the words "subject to the control of the Governor General in Council" and omit the words "approved by the Governor General in Council and"
"	XIX	The Dramatic Performances Act, 1876	In section 10 omit the words "with the sanction of the Governor General in Council"

## THE SCHEDULE

## PART I

*Acts of the Governor General of India in Council—contd.*

Year.	No.	Short title.	Amendments.
1878	VIII	The Sea Customs Act, 1878	<ol style="list-style-type: none"> <li>1 In section 9 omit the words "with the sanction of the Local Government"</li> <li>2 In sections 11, 12 and 14 after the words "The Local Government" insert the words "or, if so authorised by the Local Government, the Chief Customs authority"</li> <li>3 In sections 19A, 53, 75, 76, 79, 83, 85, 96, 116, 130, 144, 146, 148, 151 proviso, and 182, for the words "Local Government," wherever these words occur, substitute the words "Chief Customs-authority"</li> <li>4 In sections 15, 16, 17, 26, 55, 56, 63, 70, 86, 104, 105, 106, 107, 113, 117, 122, 137, 162, 174 and 199, for the words "Chief Customs-authority" substitute the words "Chief Customs Officer" and for the word "his," when used in relation to the Chief Customs-authority, substitute the word "his."</li> <li>5 In the proviso to section 42, after the words "Chief Customs-authority" insert the words "or the Chief Customs Officer" and to the said proviso, add the following words, namely, "Provided further that the Chief Customs Officer shall not extend the term to a period exceeding three years"</li> <li>6 In sections 101 and 125, for the words "Chief Customs-authority or such officer of Customs as such authority from time to time appoints in this behalf," substitute the words "Chief Customs Officer"</li> <li>7 In section 107, for the word "authority" substitute the word "officer"</li> <li>8 In section 128, for the words "Governor General in Council" substitute the words "Local Government", and for the words "Gazette of India," substitute the words "local official gazette"</li> <li>9 In section 133, for the words "with the previous sanction" substitute the words "subject to the control"</li> <li>10 In section 164, for the words "the Chief Customs-authority may" substitute the words "the Chief Customs Officer may grant or", for the words "the Chief Customs-authority" and "such authority," wherever these words occur elsewhere in the section, substitute the words "the Chief Customs Officer", and for the words "was authorised," substitute the words "was made or authorised"</li> <li>11 In the schedule in section 167 in entries 6 and 7, for the words "Chief Customs-authority" substitute the words "Chief Customs Officer" and in entries 13 and 54 for the words "Local Government" substitute the words "Chief Customs-authority"</li> <li>12 In section 206, for the words "Customs Collector shall, with the sanction of the Chief Customs-authority" substitute the words "Chief Customs Officer or, the Customs Collector, with the sanction of the Chief Customs Officer, shall" and add the following proviso, namely:—  "Provided that compensation exceeding Rs. 250 shall be paid with the sanction of the Chief Customs-authority."</li> </ol>



## THE SCHEDULE

## PART I

*Acts of the Governor General of India in Council—contd*

Year	No	Short title	Amendments
1877	III	The Destruction of Records Act, 1879	In section 5 omit the words "and sanctioned by the Governor General in Council"
,	XIII	The Oudh Civil Courts Act, 1879 .	1 In section 7 omit the words "and with the previous sanction of the Governor General in Council" 2 In section 17 for the words "Local Government" substitute the words "Judicial Commissioner", and omit the words "on the recommendation of the Judicial Commissioner" 3 In section 24 for the words "Local Government" substitute the words "Judicial Commissioner," and for the word "it" wherever it occurs, substitute the word "he"
1879	XIV	The Hackney-carnage Act, 1879 . .	1 In section 3 for the words "Local Government," wherever these words occur, substitute the word "Commissioner" 2 In section 4 omit the words "subject to the control of the Governor General in Council" 3 In section 5 for the words "Local Government," where these words occur for the first time, substitute the word "Commissioner"
"	XVI	The Transport of Salt Act, 1879 . .	In section 4 for the words "Governor of Bombay in Council" substitute the words "Chief Customs authority"
1880	V	The Burma Boundaries Act, 1880 . .	In sections 28 and 32 for the words "Chief Commissioner" substitute the words "Financial Commissioner subject to the control of the Local Government"
"	XIII	The Vaccination Act, 1880 . .	1 In section 2, clause (7), omit the words "by the Local Government" 2 In sections 4 and 5 for the words "with the previous sanction" substitute the words "subject to the control" 3 In sections 8 and 19 for the words "Local Government," wherever they occur in these sections, substitute the word "Commissioner", and in section 19 before the word "Commissioner," where that word occurs for the second time, insert the word "Municipal"
1881	XXVI	The Negotiable Instruments Act, 1881 .	1 In the definition of "notary public" in section 3 for the words "Governor General in Council" substitute the words "Local Government" 2 In sections 188 and 189 for the words "Governor General in Council" substitute the words "Local Government"
1883	I	The Central Provinces Local Self-government Act, 1883	In section 32 (1) omit the words "with the previous approval of the Governor General in Council."

## THE SCHEDULE

## PART I

*Acts of the Governor General of India in Council—contd*

Year	No	Short title	Amendments
1883	XIX	The Land Improvement Loans Act, 1883	<p>1 In section 10, omit the words "subject to the control of the Governor General in Council"</p> <p>2 After section 11, add the following section—</p> <p>"12 The powers conferred on a Local Government by section 4 (1), to be exercisable by the Board of Revenue or Financial Commissioner may, in a province for which there is a Board of Revenue or a Financial Commissioner, be exercised in the like manner and subject to the like conditions by such Board or Financial Commissioner, as the case may be. Provided that rules made by a Board of Revenue or Financial Commissioner shall be subject to the control of the Local Government"</p>
	XX	The Punjab District Boards Act, 1883	<p>1 In section 13 for the words "the local Government," wherever they occur, substitute the word "Commissioner"</p> <p>2 In section 36, sub-section (2), after the words "is, the", wherever they occur, insert the words "Local Government, subject to the control of the"</p> <p>3 In section 51 omit the words "with the previous approval of the Governor General in Council" and the proviso</p> <p>4 In section 53, omit the letter and words "(b) make rules regulating the powers of district boards to make, vary and dispose of investment" from clause (1) and insert the letter and words "(b) regulating the powers of district boards to make, vary and dispose of investments" under clause (2) after the words "make rules for", and to the section, after the words "have been notified" add the words "Rules made under clause (2) (b) shall be subject to the control of the Governor General in Council"</p>
1884	XII	The Agriculturists' Loans Act, 1884	<p>In section 4, sub-section (1), omit the words "subject to the control of the Governor General in Council", and after the words "Local Government" insert the words "or, in a province for which there is a Board of Revenue or Financial Commissioner, such Board or Financial Commissioner, subject to the control of the Local Government"</p>
1886	II	The Indian Income-tax Act, 1886	<p>Add a new section, namely—</p> <p>"50A The Local Government may, by notification in the local official Gazette, delegate all or any of the powers conferred on it by sections 16 (5), 18 (1) (a), (b), (c), 30 (2), (4), 38 (3) and 40 to the Chief Revenue-authority by which expression is meant the Board of Revenue or the Financial Commissioner in those provinces where these authorities exist and in any other case such authority as the Local Government may declare to be the Chief Revenue authority"</p>

## THE SCHEDULE

## PART I

*Acts of the Governor General of India in Council—contd*

Year	No	Short title	Amendments
1887	IX	The Provincial Small Cause Courts Act, 1887	In sections 5 and 8 omit the words "with the previous sanction of the Governor General in Council"
	XII	The Bengal, Agra and Assam Civil Courts Act, 1887	<p>1 For section 4 substitute the following section, namely —</p> <p>"4 The Local Government may alter the number of Subordinate Judges and Munsifs now fixed and, with the previous sanction of the Governor General in Council, the number of District Judges"</p> <p>2. Omit section 5</p> <p>3 In section 6 (1) for the words "the Governor General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges" substitute the words "an increase in the number of District or Subordinate Judges has been made under the provisions of section 4"</p> <p>4 In section 7 (2) for the words "with the previous sanction" substitute the words "subject to the control"</p> <p>5 To section 19, sub-section (2) and to sections 25 and 34 (1), add the following proviso, namely —</p> <p>"Provided that the Local Government may, by notification in the local official Gazette, delegate to the High Court its powers under this section"</p>
"	XVI	The Punjab Tenancy Act, 1887	<p>1. In section 61 (3) and 88 (1) omit the words "with the previous sanction of the Governor General in Council"</p> <p>2 In section 100, sub-section (3), for the words "not take effect until they have been sanctioned by" substitute the words "be made subject to the control of."</p>
"	XVII	The Punjab Land Revenue Act, 1887	<p>1. In section 7, sub-section (1), omit the words "with the previous sanction of the Governor General in Council"</p> <p>2 In section 118 (2) omit the words "to the Commissioner" and for the word "Commissioner," where it occurs for the second time, substitute the words "authority to whom the appeal has been preferred"</p> <p>3 In section 155, sub-section (3), omit the following — "and rules under clause (c) of sub-section (1) shall not take effect until they have also been confirmed by the Governor General in Council"</p>
1888	XVIII	The Burma Financial Commissioner's Act, 1888	In section 2, sub-section (1), omit the words "with the previous sanction of the Governor General in Council"
1896	I	The Revenue Recovery Act, 1890	In section 3, sub-section (2), after the word "it" insert the words "or by any officer to whom such Collector may, by order in writing, delegate this duty"

## THE SCHEDULE

## PART I

*Acts of the Governor General of India in Council—contd*

Year	No	Short title	Amendments.
1892	VII	The Malabar City Civil Court Act, 1892	In section 10 omit the words "and the sanction of the Governor General in Council"
1894	I	The Land Acquisition Act, 1894	In section 55, sub-section (1), after the word "shall" insert the words "subject to the control of the Governor General in Council" and in sub-section 3) of the said section omit the words "when sanctioned by the Governor General in Council"
1895	XIV	The Pilgrim Shus Act, 1895	In section 58, sub section (2), omit the words "with the previous sanction of the Governor General in Council"
1896	II	The Cotton Duties Act, 1896	1 In sections 12 and 13 for the words "Chief Customs-authority", wherever they occur in those sections, substitute the word "Collector" 2 In section 16, sub-section (1), for the words "Local Government", wherever they occur, substitute the words "Chief Customs-authority"
"	VIII	The Inland Bonded Warehouses Act, 1896	In section 7, omit the words "with the previous sanction of the Governor General in Council"
1897	VIII	The Reformatory Schools Act, 1897	In section 5 omit the words "with the previous sanction of the Governor General in Council"
1898	XIII	The Burma Laws Act, 1898	In section 5 omit the words "with the previous sanction of the Governor General in Council" and the words "of its own authority"
1899	II	The Indian Stamp Act, 1899	1 In section 39, sub section (1), omit the words "upon application made to him in this behalf or if no application is made with the consent of the Chief Controlling Revenue-authority" 2 In section 49 for the words "Governor General in Council" substitute the words "Local Government" 3 In section 51 after the word "Revenue-authority" insert the words "or the Collector if empowered by the Chief Controlling Revenue Authority in this behalf" 4. After section 60 insert a new section, namely — "76A The Local Government may, by Delegation of certain notification in the local powers official Gazette, delegate— (a) all or any of the powers conferred on it by sections 2 (g), 33 (d) (b), 70 (1), 74 and 78 to the Chief Controlling Revenue-authority, and (b) all or any of the powers conferred on the Chief Controlling Revenue-authority by sections 45 (1) (2), 56 (1) and 70 (2) to such subordinate Revenue-authority, as may be specified in the notification."

## THE SCHEDULE

## PART I

*Acts of the Governor General of India in Council—contd*

Year	No	Short title	Amendments.
1899	VIII	The Indian Petroleum Act, 1899	To section 5, sub-section (1), after the words "Local Government" add the words "or an officer appointed by the Local Government in this behalf"
1900	VI	The Lower District Courts Act, 1900	1. In section 23, sub-section (1), for the words "may be approved by the Governor General in Council" substitute the words "it may think fit" 2. In section 23, sub-section (2), omit the words "with the previous sanction of the Governor General in Council" and the words "of its own authority"
1901	VIII	The Indian Mines Act, 1901 . . .	1. In section 20, sub-section (1), for the words "with the previous sanction" substitute the words "subject to the control" 2. In section 29 for the words "The Governor General in Council" substitute the words "The Local Government" and for the words "the Gazette of India" the words "the local official Gazette" and for the word "him" substitute the word "it"
1902	II	The Cantonments (House-accommodation) Act, 1902	In section 10, sub-section (1), for the words "Local Government" substitute the words "Commissioner, or, in a province where there are no Commissioners, of the Collector"
1903	XVI	The Central Provinces Municipal Act, 1903	1. In section 51, sub-section (3), before the words "the Governor General in Council" insert the words "the Local Government subject to the control of" 2. In section 14, sub-section (1), omit the words "with the previous sanction of the Governor General in Council"
1901	IV	The North-West Frontier Military Police Act 1901	In section 18 for the words "with the previous sanction" substitute the words "subject to the control"
1907	III	The Provincial Insolvency Act, 1907	In section 3, sub-section (1), omit the words "with the previous sanction of the Governor General in Council"
1908	V	The Code of Civil Procedure, 1908	In section 138, sub-section (1), for the words "Local Government" substitute the words "High Court"
	XIII	The Central Provinces Financial Commissioner's Act, 1908.	In section 2, sub-section (2), omit the words "with the previous sanction of the Governor General in Council."
	XVI	The Indian Registration Act, 1908 . . .	1. To section 6 the following proviso shall be added, namely— "Provided that the Local Government may delegate, subject to such restrictions and conditions as it thinks fit, to the Inspector General of Registration the power of appointing Sub-Registrars" 2. In section 12 for the words "the Local Government fills up the vacancy" substitute the word, "the vacancy is filled up" 3. In section 13, sub-section (1), before the word "all" insert the word "all appointments made by the Inspector General under section 6 and" 4. To section 13 (3) add the words "and the Inspector General of Registration may, subject to such conditions and restrictions as the Local Government may impose, exercise the like power in the case of Sub-Registrars appointed by him" 5. In sections 14 and 78 for the word "approval" substitute the word "control"

## THE SCHEDULE

## PART I.

*Acts of the Governor General of India in Council—continued*

Year	No	Short title	Amendments
1908	XVII	The Indian Emigration Act 1906	<ol style="list-style-type: none"> <li>1 In section 11 for the words "Governor General in Council" substitute the words "Local Government"</li> <li>2 In section 50 for the word, "obtained from the Local Government" substitute the words "granted in accordance with the provisions of this Act"</li> <li>3 In section 51, sub-section (1), for the words "through the Protector of Emigrants to the Local Government" substitute the words "to the Protector of Emigrants."</li> <li>4 In section 52, sub-section (2), for the words "Local Government" substitute the words "Protector of Emigrants", and for the word "it" substitute the word "he"</li> <li>5 In section 53, sub-section (1), clause (a), omit the words "the Protector of Emigrants and"</li> <li>6 In section 102, sub-section (1), for the words "Governor General in Council" substitute the words "Local Government", and for the words "Gazette of India," substitute the words "local official Gazette"</li> </ol>

## THE SCHEDULE.

## PART II

*Regulations made by the Governor General of India in Council under section 1 of the Government of India Act, 1870*

Year.	No	Short title	Amendments
1887	VIII	The Ajmer Irrigation Regulation, 1887	In section 4, sub-section (1), for the words "with the previous sanction" substitute the words "subject to the control"
"	XII	The Upper Burma Ruby Regulation, 1887	1 In section 4 omit the words "with the previous sanction of the Governor General in Council," wherever they occur 2. In section 5, sub-section (2), clause (b), insert after the word "directs" the words "and in accordance with such conditions, if any, as to the time, place and mode of payment as it may direct" and omit sub-section (3)
1899	I	The Coorg Land and Revenue Regulation, 1899.	In section 60, sub-section (1), omit the words "with the previous sanction of the Governor General in Council"
1900	VI	The Coorg District Fund Regulation, 1900	1 In section 3 omit the words "with the previous sanction of the Governor General in Council" 2 In section 9 omit the words "with the sanction of the Governor General in Council"
1907	II	The Coorg Municipal Regulation, 1907	1 In section 50, sub-section (3), before the words "the Governor General in Council" insert the words "the Chief Commissioner subject to the control of" 2 In section 148, sub-section (1), omit the words "with the previous sanction of the Governor General in Council."

## THE SCHEDULE

## PART III

*Bengal Regulations*

Year	No.	Short title	Amendments
1799	V	The Bengal Wills and Intestacy Regulation 1799	In section 7, the amendment made by the Repealing and Amending Act, 1908, Schedule II, Part I, is repealed, and for the words "Governor General in Council for his" substitute the words "Board of Revenue, or, in Assam, to the Local Government, for its."

W H. VINCENT,  
*Secretary to the Government of India*



GOVERNMENT OF INDIA  
LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to consolidate and amend the law relating to Motor Vehicles in British India was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th February, 1914 —

We, the undersigned, Members of the Select Committee to which the Bill to consolidate and

Papers No 1 — From Government, Bengal, No 8585 P, dated the 29th November, 1913, from Chief Commissioner, Central Provinces, No C 27, dated the 29th November, 1913, and from Chief Commissioner, Ajmer-Merwara, No 1214 C, dated the 30th November, 1913

Papers No 2 — From Chief Commissioner, Delhi, No 8280, dated the 6th November 1913, from Chief Commissioner, Coorg, No 2803, dated the 10th November, 1913, and from Chief Commissioner, North-West Frontier Province, No 1987-C, dated the 25th November, 1913

Papers No 3 — From Chief Commissioner, Assam, No 8941, dated the 4th December, 1913, and enclosures, from Government of Bombay, No 8634 A, dated the 5th December, 1913, and enclosures, from Registrar, High Court, Calcutta, No 4428, dated the 5th December, 1913, and from Agent to Governor General and Chief Commissioner, Baluchistan, No 3648, dated the 6th December, 1913

Papers No 4 — From Government, United Provinces, No 2635 671 M, dated the 16th December, 1913, and from Government, Punjab, No 1120 (C & I), dated the 16th December, 1913, and enclosures

Papers No 5 — From Government, Bihar and Orissa, No 1025-J, dated the 12th December, 1913

Papers No 6 — From Government, Madras, No 2596, dated the 13th December, 1913, and enclosures

Papers No 7 — From Government, Burma, No 1922-849 G, dated the 28th December, 1913, and enclosures

amend the law relating to Motor Vehicles in British India was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto

2 We have amended clause 8 of the Bill as

introduced by providing that no person under the age of eighteen years shall drive a motor vehicle. This modification of the Bill is made in deference to the decided opinion expressed by various Local Governments that it is unsafe to allow boys of sixteen to drive such vehicles

3 We have deleted clauses 5 and 13 of the Bill as introduced and substituted for them a general penal clause (clause 16), for contravention of any provisions of the Act if such contravention is not otherwise specially provided for. All such violations of the Act or any rule made thereunder are punishable with a fine of rupees one hundred on a first conviction and rupees two hundred for any subsequent conviction

4 We have modified clause 6 of the Bill as introduced so as to provide for a maximum fine of rupees five hundred in cases of rash or negligent driving, which we regard as a serious offence

5 We have amended clause 9 of the Bill as introduced by providing that a police officer of the rank of a constable may call upon a motor driver to produce his licence. We apprehend that in many places the only police officers who will be available to see that the provisions of the Act are complied with will be constables on duty in the public streets and we do not think, having regard to the class of persons who use and drive motor cars, that there is any danger of the powers conferred by this section being abused

6 In response to the suggestion from more than one quarter that provision should be made for the recognition of registration generally, we have added a clause to the Bill as introduced providing that registration of a car in one province if made in conformity with conditions to be prescribed by the Governor General in Council shall be effective beyond the limits of the province in which such registration is effected

7. We have amended clause 11 of the Bill as introduced by providing that the Local Government may make rules prescribing the fees to be levied from owners of motor vehicles which are let for hire in public places

8. We have excised clause 17 of the Bill which authorised police officers under certain circumstances to arrest persons accused of offences under the Act as we think that the powers of police officers in such cases should be limited to those conferred by the general law relating to non-cognizable offences

9 We have amended clause 19 of the Bill as introduced by providing that no order of a Court suspending or cancelling a licence or declaring a person disqualified from obtaining a licence shall have effect for a period exceeding one year. The opinion has been expressed that it is not desirable to give an unrestricted power to the Courts.

10. The remaining changes in the Bill are not of such importance as to necessitate reference to them. They are chiefly verbal or consequential on the modifications referred to above.

11. The publication ordered by the Council has been made as follows.—

<i>Gazette</i>	<i>In English</i>	<i>Date.</i>
Gazette of India . . . . .		20th September, 1913.
Fort Saint George Gazette . . . . .		7th October, 1913.
Bombay Government Gazette . . . . .		} 2nd October, 1913.
Sind Official Gazette . . . . .		
Calcutta Gazette . . . . .		1st October, 1913.
Bihar and Orissa Government Gazette . . . . .		1st October, 1913.
United Provinces of Agra and Oudh Government Gazette . . . . .		27th September, 1913.
Punjab Government Gazette . . . . .		26th September, 1913.
Burma Gazette . . . . .		4th October, 1913.
Assam Gazette . . . . .		1st October, 1913.
Central Provinces Gazette . . . . .		27th September, 1913.
Cooch District Gazette . . . . .		2nd October, 1913.
North-West Frontier Province Gazette . . . . .		3rd October, 1913.

<i>In the Vernaculars</i>								
<i>Provinces.</i>	<i>Language.</i>			<i>Date.</i>				
Madras	.	.	.	.	Tamil	.	.	} 11th November, 1913.
	.	.	.	.	Telugu	.	.	
	.	.	.	.	Hindustani	.	.	
	.	.	.	.	Kanarese	.	.	
	.	.	.	.	Malayalam	.	.	
Bombay	.	.	.	.	Marathi	.	.	} 6th November, 1913.
	.	.	.	.	Gujarati	.	.	
	.	.	.	.	Kanarese	.	.	
Sindh	.	.	.	.	Sindhi	.	.	20th November, 1913.
United Provinces of Agra and Oudh	.	.	.	.	Urdu	.	.	22nd November, 1913.
Burma	.	.	.	.	Burmese	.	.	8th November, 1913.
Cooch	.	.	.	.	Kanarese	.	.	1st December, 1913.

12 We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

R. H. CRADDOCK.

SYED ALI IMAM.

GOPAL SARAN SINGH.

S. R. ARTHUR.

J. C. ARBUTHNOTT.

DALJIT SINGH.

V. R. PANDIT.

MIR ASAD ALI.

W. H. VINCENT.

H. WHEELER.

MANINDRA CHANDRA NANDI.

KUSHAL PAL SINGH.

W. H. COBB.

W. F. RICE.

*The 3rd February, 1914*

The Hon'ble Mr. Monteath did not attend the meetings of the Select Committee and did not therefore sign the Report.

[ AS AMENDED BY THE SELECT COMMITTEE ]

[Words printed in italics indicate amendments suggested by the Select Committee.]

*A Bill to consolidate and amend the law relating to Motor Vehicles in British India*

WHEREAS it is expedient to consolidate and amend the law relating to motor vehicles in British India, It is hereby enacted as follows —

## PART I

### PRELIMINARY

Short title, extent and commencement **1** (1) This Act may be called the Indian Motor Vehicles Act, 1914

(2) This Act, except Part III thereof, extends to the whole of British India including British Baluchistan, the Sonthal Paiganas and the Paigana of Spiti. Part III extends in the first instance only to the Provinces of Madras, Bombay, Bengal, the United Provinces of Agra and Oudh, the Punjab, Burma, Bihar and Orissa, the North-West Frontier Province and *Delhi*. The Local Government of any other Province may, by notification in the local official Gazette, extend Part III to the whole or any part of such province

(3) It shall come into force on such date as the Governor General in Council by notification in the Gazette of India may direct

**2.** "Motor vehicle" includes a vehicle, carriage or other means of conveyance propelled, or which may be propelled, on a road by electrical or mechanical power either entirely or partially

"Prescribed" means prescribed by rules under this Act

"Public place" means a road, street, way or other place, whether a thoroughfare or not, to which the public are granted access or over which they have a right to pass

## PART II.

### PROVISIONS OF GENERAL APPLICATION

**3** (1) No person under the age of *eighteen* years shall drive a motor vehicle in any public place

(2) No owner or person in charge of a motor vehicle shall allow any person under the age of *eighteen* years to drive the same in any public place, and in the event of a contravention of subsection (1), the Court may presume that the motor vehicle was driven with the consent of the owner or person in charge

**4** The person in charge of a motor vehicle shall cause the vehicle to stop and to remain stationary so long as may reasonably be necessary—

(a) when required to do so by any police officer for the purpose of regulating

traffic or of ascertaining his name and address with a view to prosecuting such person under this Act or for any purpose connected with the enforcement of the provisions of this Act or the rules thereunder, or

(b) when required to do so by any person having charge of any animal if such person apprehends that the animal is, or will be, alarmed by the motor vehicle, or

(c) when he knows or has reason to believe that an accident has occurred to any person or to any animal or vehicle in charge of a person owing to the presence of the motor vehicle and he shall also, if so required, give his name and address and the name and address of the owner of such motor vehicle.

**5.** Whoever drives a motor vehicle in a public place recklessly or negligently, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the place, and the amount of traffic which actually is at the time, or which might reasonably be expected to be, in the place, shall, on conviction, be punishable with fine which may extend to five hundred rupees

## PART III

### LICENSING AND CONTROL

**6** No person shall drive a motor vehicle in a public place unless he is licensed in the prescribed manner, and no owner or person in charge of a motor vehicle shall allow any person who is not so licensed, to drive it

Provided that, subject to rules made by the Local Government in this behalf, this section shall not apply to a person receiving instruction in driving a motor vehicle

**7** The holder of a licence shall not allow it to be used by any other person

**8.** The driver of a motor vehicle shall produce his licence upon demand by any police officer

**9** Every licence to drive a motor vehicle shall be valid in such area as may be specified therein

Provided that no licence shall specify any area outside the province in which it is granted, unless it is issued by such authority and in accordance with such conditions and restrictions as the Governor General in Council may impose

**10** (1) The owner of every motor vehicle shall cause it to be registered in the prescribed manner

(2) Such registration shall be valid in such area as may be specified in the certificate of registration

*Provided that no certificate of registration shall be valid outside the province in which it is granted unless it is issued in accordance with such conditions and restrictions as the Governor General in Council may impose*

**11. (1)** The Local Government, subject to the condition of previous publication, shall make rules for the purpose of carrying into effect the provisions of this Act and of regulating, in the whole or any part of the territories under its administration, the use of motor vehicles or any class of motor vehicles in public places

(2) In particular, and without prejudice to the generality of the foregoing powers, the Local Government may make rules for all or any of the following purposes, namely —

- (a) providing for the registration of motor vehicles, and the conditions subject to which such vehicles may be registered, the fees payable in respect of and incidental to registration, the issue of certificates of registration, the notification of any changes of ownership, and, (subject to the provisions of section 10,) the area in which certificates of registration shall be valid,
- (b) providing for facilitating the identification of motor vehicles by the assignment of distinguishing numbers to such vehicles and the displaying of number and name plates thereon, or in any other manner,
- (c) regulating the construction and equipment of motor vehicles including the provision and use of lights, bells, horns, brakes, speed-indicators or other appliances,
- (d) prescribing the authority by which, and the conditions subject to which, drivers of motor vehicles or any class of such drivers may be licensed, the fees payable in respect of such licences, and (subject to the provisions of section 9) the area within which, and the duration for which, licences shall be valid,
- (e) prescribing the conditions subject to which, and the fees (if any) on payment of which, motor vehicles may be let or hired for hire in public places generally or in any particular public place,
- (f) prescribing the precautions to be observed when motor vehicles are standing in any public place,
- (g) limiting the speed at which motor vehicles may be driven generally or in any particular public place,
- (h) prohibiting or regulating the driving of motor vehicles in public places, where their use may, in the opinion of the Local Government, be attended with danger or inconvenience to the public, and
- (i) providing generally for the prevention of danger, injury or annoyance to the public or any person, or of danger or injury to property, or of obstruction to traffic.

(3) All rules made under this section shall be published in the local official Gazette; and, on such publication, shall have effect as if enacted in this Act

**12.** The prescribed authority shall give, in the prescribed manner, public notice of any rule, made by the Local Government under section 11, prohibiting or regulating the driving of motor vehicles in any public place, or limiting the speed of motor vehicles in any such place, and, for the purpose of giving effect to any such rule, shall display conspicuous notices at or near the place to which the rule refers

**13.** The Local Government may, by notification in the local official Gazette, exclude any area specified in such notification from the operation of this Part, and may, by a like notification, exempt either generally or for a specified period any motor vehicle or class of motor vehicles from the operation of all or any of the provisions of this Part

## PART IV

### MOTOR VEHICLES TEMPORARILY LEAVING OR VISITING BRITISH INDIA

**14. (1)** The Governor General in Council may make rules for all or any of the following purposes, namely —

- (2) for the grant and authentication of any travelling passes, certificates or authorities for the use of persons temporarily taking their motor vehicles out of British India, or to drivers of such vehicles when proceeding out of British India for the purpose of driving such vehicles, and
- (3) prescribing the conditions subject to which motor vehicles brought temporarily into British India by persons intending to make a temporary stay there may be possessed, used and driven

(2) All rules made under this section shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act

**15.** Nothing in this Act or in any rule made thereunder relating to —

- (a) the registration of motor vehicles,
- (b) requirements as to construction, identification or equipment of such vehicles, or
- (c) the licensing or qualifications of drivers of such vehicles,

shall apply in the case of any motor vehicle such as is referred to in clause (3) of sub-section (1) of section 14, or of any person possessing, using or driving the same, provided that the requirements of any rule made under the said clause and applicable to such vehicle or person are complied with.

## PART V.

## MISCELLANEOUS.

**16.** Whoever contravenes any of the provisions of this Act or of any rule made thereunder shall, if no other penalty is elsewhere provided in this Act for such contravention, be punishable with fine which may extend to one hundred rupees, and, in the event of such person having been previously convicted of an offence under this Act, or any rule made thereunder, with fine which may extend to two hundred rupees.

**17.** No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try any offence punishable under this Act or any rule made thereunder.

Cognizance of offences.  
Cancellation and suspension of licence and disqualification for obtaining licence.

**18.** (1) A Local Government may, in its discretion,—

- (i) cancel or suspend any licence granted under this Act, and
- (ii) declare any persons disqualified for obtaining a licence under this Act either permanently or for such period as it thinks fit.

(2) Any Court by which any person is convicted of an offence against the provisions of this Act or any rule made thereunder or of any offence in connection with the driving of a motor vehicle shall, if such person holds a licence under the Act, cause particulars of the conviction to be endorsed thereon and may, in respect of such person and of his licence, if any, exercise the like powers as are conferred by sub-section (1) on the Local Government :

*Provided that no order made by a Court under this sub-section shall affect any person or licence for a period exceeding one year from the date of such conviction.*

(3) Any Court before which the holder of a licence under this Act is accused of any offence mentioned in sub-section (2) may suspend such licence until the termination of the proceedings before it.

(4) A copy of every order of cancellation, suspension or disqualification made under this section in respect of a licence or the holder of a licence shall be endorsed on the licence, and a copy of every endorsement, in accordance with the provisions of this section, shall be sent to the authority by which such licence has been granted.

(5) Every holder of a licence shall, when called upon to do so, produce his licence before any authority acting under this section.

(6) A person whose licence has been cancelled or suspended in accordance with the provisions of this section, shall, during the period for which such order of cancellation has effect, or during the period of suspension, as the case may be, be disqualified for obtaining a licence.

(7) No person whose licence has been endorsed or who has been disqualified for obtaining a licence shall apply for, or obtain, a licence without giving particulars of such endorsement or disqualification.

**19.** The enactments mentioned in the Schedule are repealed to the extent specified in the fourth column thereof :

Repeals.

Provided that any appointment, notification, order, rule, form or licence made or issued under any of the said Acts, shall, so far as it is not inconsistent with the provisions of this Act, continue in force and be deemed to have been issued under the provisions of this Act, unless and until it is superseded by any appointment, notification, order, rule, form or licence made or issued under this Act.

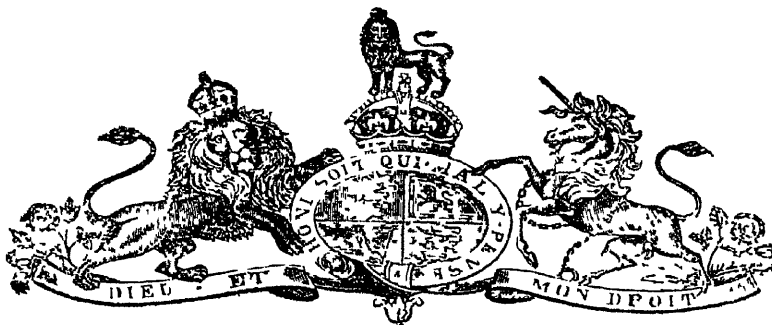
## SCHEDULE.

(SEE SECTION 19.)

*Enactments Repealed.*

Year.	No.	Short title.	Extent of repeal.
		I.—Act of the Governor General.	
1912	XII	The Motor Vehicles International Circulation Act, 1912	The whole.
		II.—Madras Act.	
1907	I	The Madras Motor Vehicles Act, 1907 . . .	The whole.
		III.—Bombay Act.	
1904	II	The Bombay Motor Vehicles Act, 1904 . . .	The whole.
		IV.—Bergal Act.	
1903	III	The Bengal Motor Car and Cycle Act, 1903 . . .	The whole.
		V.—United Provinces Act.	
1911	II	The United Provinces Motor Vehicles Act, 1911 . . .	The whole.
		VI.—Punjab Act.	
1907	II	The Punjab Motor Vehicles Act, 1907 . . .	The whole.
		VII.—Burma Act.	
1906	II	The Burma Motor Vehicles Act, 1906 . . .	The whole.

W. H. VINCENT,  
Secretary to the Government of India,



# The Gazette of India.

PUBLISHED BY AUTHORITY.

DELHI, SATURDAY, FEBRUARY 28, 1914.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend certain enactments and to repeal certain other enactments was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 24th February 1914:—

We, the undersigned, Members of the Select Committee to which the Bill to amend certain enactments and to repeal certain other enactments was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2 We have made no change in the body of the Bill beyond correcting a misprint. As regards the Schedules we think that the wording of the amendment to Act XV of 1910 was rather too wide in its language, and we have slightly changed the drafting. We have omitted from the second Schedule the entries relating to Acts XI of 1879 and XII of 1897 as they are proposed to be totally repealed by the Local Authorities Loans Bill, which is now before the Council. Beyond certain changes of form, we have made no other alterations in the Schedules to the Bill.

3 We may explain, as there appears to be some misapprehension on the point, that only those commencement clauses have been repealed which provide that the Acts shall come into force either at once or on the passing thereof. In such cases, the date of the commencement of the Act is always printed at the top, immediately above the title, for convenience of reference, in the copies of Acts issued by Government. The Bill in this respect follows the precedent of the previous Repealing and Amending Acts of 1891 and 1908. We are informed that the practice in England is to repeal all commencement clauses.

4 The Bill was published in the Gazette of India as required by rule 22 of the Rules for the conduct of Legislative business.

5 We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

SYED ALI IMAM  
JOHN C. ARBUTHNOTT.  
S. QUMRUL HUDA  
W. H. VINCENT.  
H. WHEELER  
H. M. LAURIE  
JAMES DONALD.  
C. VIJAYARAGHAVACHARIAR.  
V. R. PANDIT  
L. M. WYNCH.  
W. H. COBB

The 21st February, 1914

As the Hon'ble Mr. Vakil, the Hon'ble Nawab Sayid Muhammad, the Hon'ble Raja Sir Muhammad Ali Muhammad Khan and the Hon'ble Mr. Das are not in Delhi and did not attend the Select Committee, their signatures are not appended.

[AS AMENDED BY THE SELECT COMMITTEE]

[Words printed in italics indicate amendments suggested by the Select Committee.]

A

## BILL

TO

*Amend certain enactments and to repeal certain other enactments*

WHEREAS it is expedient that certain formal amendments should be made in the enactments specified in the First Schedule,

and whereas it is also expedient that certain enactments specified in the Second Schedule which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed,

It is hereby enacted as follows —

1 This Act may be called the Repealing and Short title Amending Act, 1914

2 The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof

3 The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof

4. The repeal by this Act of any enactment shall not affect any Act or Savings Regulation in which such enactment has been applied, incorporated or referred to,

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing,

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed,

nor shall the repeal by this Act of any enactment *revive* or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.



## THE FIRST SCHEDULE.

## AMENDMENTS

(See section 2)

1	2	3	4
Year.	No	Short title	Amendments
1850	XXXVII	The Public Servants (Inquiries) Act, 1850	In section 8, for the words and figures "Act XXX of 1841" the words and figures "the Code of Criminal Procedure, 1898," shall be substituted
1867	XXV	The Press and Registration of Books Act, 1867	In section 19, for the words "Secretary to the Government of India in the Home Department", the words "Government of India" shall be substituted
"	XXXII	The Chief Commissioners' Powers Act	In the preamble, for the words "Chief Commissioners" the words "Chief Commissioner" shall be substituted
1872	I	The Indian Evidence Act, 1872	In section 37, for the words "the Governors in Council of Madras or Bombay, or of the Lieutenant-Governor in Council of Bengal" the following shall be substituted, namely "any other legislative authority in British India constituted for the time being under the Indian Councils Act, 1861, the Indian Councils Act, 1861 and 1892, or the Indian Councils Acts, 1861 to 1909"
"	XV	The Indian Christian Marriage Act, 182	In section 46, for the words "and Bombay" the words "Bombay and Fort William in Bengal" shall be substituted
1875	XIII	The Probate and Administration Act, 1875	In the title, for the words "Probates and Letters of Administration" the words "Court Fees" shall be substituted
1882	V	The Indian Easements Act, 1882	For section 8 the following section shall be substituted, namely —  "3 All references in any Act or Regulation to sections 26 and 27 of the Indian Limitation Act, 1877, or to sections 27 and 28 of Act No IX of 1871 shall, in the territories to which this Act extends, be read as made to sections 15 and 16 of this Act"
"	XV	The Presidency Small Cause Courts Act, 1882	In section 10, clause (b), for the words "or Bombay" the words "Bombay or Fort William in Bengal" shall be substituted In section 87, for the figures and words "83 or section 85" the words and figures "480 or section 482 of the Code of Criminal Procedure, 1898," shall be substituted In section 88, for the words and figures "Presidency Magistrates Act, 1877," the words and figures "Code of Criminal Procedure, 1898," shall be substituted
1886	X	The Indian Criminal Law Amendment Act, 1886.	In the title and preamble, for the words "Code of Criminal Procedure, 1882, and certain other Acts" the words "Indian Penal Code" shall be substituted
"	XIII	The Indian Securities Act, 1886	In section 14, after the words "from time to time," the words "after previous publication" shall be inserted.
1887	IX	The Provincial Small Cause Courts Act, 1887	In the Second Schedule, clause (1), for the words "or Bombay" the words "Bombay or Fort William in Bengal" shall be substituted
1894	I	The Land Acquisition Act, 1894	In section 2, sub-sections (2) and (3), for the words "said Land Acquisition Act," the words and figures "Land Acquisition Act, 1870," shall be substituted

1	2	3	4
Year	No.	Short title.	Amendments
1894	VIII	The Indian Tariff Act, 1894 .	In section 5, sub-section (2), for the words "and the Governor of Bombay in Council" the words "the Governor of Bombay in Council and the Governor in Council of Fort William in Bengal" shall be substituted
"	IX	The Prisons Act, 1894 .	In section 47, clause (4), for the word "and" the word "or" shall be substituted
1897	X	The General Clauses Act, 1897 .	In section 3, between clauses (3) and (4), the following shall be inserted namely — <p>"(3a) 'Assam Act' shall mean an Act made by the Chief Commissioner of Assam in Council under the Indian Councils Act, 1861 to 1909"</p> <p>For clause (5) the following shall be substituted, namely —          "(5) 'Bengal Act' shall mean in the case of Act passed prior to the 1st April, 1912, an Act made by the Lieutenant-Governor of Bengal in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1893, or the Indian Councils Acts, 1861 to 1909, and in the case of Acts passed after that date, an Act made by the Governor of the Presidency of Fort William in Bengal in Council under the Indian Councils Acts, 1861 to 1909"</p> <p>After clause (5) the following shall be inserted, namely —          "(5a) 'Bihar and Orissa Act' shall mean an Act made by the Lieutenant-Governor of Bihar and Orissa in Council under the Indian Councils Acts, 1861 to 1909"</p> <p>To each of clauses (6) and (8a) the following shall be added, namely —          "or the Indian Councils Acts, 1861 to 1909."</p> <p>After clause (16), the following shall be inserted, namely —          "(16a) 'Eastern Bengal and Assam Act' shall mean an Act made by the Lieutenant-Governor of Eastern Bengal and Assam in Council under the Indian Councils Acts, 1861 and 1893, or the Indian Councils Acts, 1861 to 1909"</p> <p>To each of clauses (30), (44a) and (55a) the following shall be added, namely —          "or the Indian Councils Acts, 1861 to 1909."</p>
"	XIV	The Indian Shot Titles Act, 1897 .	In the Schedule, for the entry in column 4 against Act XIII of 1875, the following shall be substituted, namely — <p>"The Court Fees (Amendment) Act, 1875"</p>
1898	V	The Code of Criminal Procedure, 1898 .	In section 481, after the figures "480" the words and figures "or section 482" shall be inserted and after the words "to punishment" the words "or forwarded him to a Magistrate for trial" shall be inserted
1899	II	The Indian Stamp Act, 1899	In Schedule I, article 24, <i>Exemption</i> (b), after the word "marriages" the word "divorces" shall be inserted

1	2	3	4
Year	No	Short title	Amendments
1903	I	The Repealing and Amending Act, 1903	In the title, after the word "enactments" where it first occurs, the word "and" shall be inserted.
"	XV	The Indian Extradition Act, 1903	In the first Schedule, for the figures "446" the figures "411" shall be substituted
1904	VIII	The Indian Universities Act, 1904	In section 24, sub-section (6), for the figure "3" the figure "5" shall be substituted
1907	III	The Provincial Insolvency Act, 1907	In section 22, in the proviso, for the word "oidi" the word "act" shall be substituted  In section 44, sub-section (3), between the words "of" and "following" the word "the" shall be inserted.
1908	IV	The Coroners (Amendment) Act, 1908	In section 2, before the words "the said Act," the words and figures "the Coroners Act, 1871, hereinafter referred to as" shall be inserted
"	V	The Code of Civil Procedure, 1908	In Schedule I, in Appendix E, Form No 7, for the bracketted reference "(O 21, r 22)" the following shall be substituted, namely —  " (O 21, r 16) "  In Appendix F, the last two Forms shall be renumbered 9 and 10 instead of 6 and 7 respectively
1910	IX	The Indian Electricity Act, 1910	In the Schedule, in clause VII (1), for the words "a notice" the words "one month's notice" shall be substituted
"	XV	The Cantonments Act, 1910	In section 3, sub-section (1), after the word "place" the words "or places" and after the word "quartered" the words "or which, being in the vicinity of such place or places, are required for the service of the troops" shall be inserted
1911	XVII	The Indian Aliens Act, 1911	In section 12, clause (b), for the word "to" the word "by" shall be substituted
"	XVIII	The Calcutta Improvement (Appeals) Act, 1911.	In section 3, sub-section (2), after the words "lie on" the words "one or more of" shall be inserted.  In section 5, for the words "appeal as if it was" the words "appeal under this Act, as if it were" shall be substituted
1913	II	The Official Trustees Act, 1913	In section 30, sub-section (2), the following clause shall be inserted after clause (e) —  "(ee) The disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of the Official Trustee as the Government may consider useless or unworthy of being permanently preserved"
"	III	The Administrator General's Act, 1913	In section 50, sub-section (2), the following clause shall be inserted after clause (f) —  "(ff) The disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of the Administrator-General as the Government may consider useless or unworthy of being permanently preserved"
"	VII	The Indian Companies Act, 1913	In the First Schedule, in Table A, paragraph 91 for the word "found" the word "formed" shall be substituted

## THE SECOND SCHEDULE

## REPEALS

(See section 3)

1	2	3	4
Year	No	Subject or short title	Extent of repeal
1834	II	The Secretaries to Government Act, 1834	The words "and to the Government of Fort William in Bengal"
1838	XXV	The Wills Act, 1838	In section 1, the words <i>from</i> "and every word importing the singular" to "a male"
1839	XXIX	The Dower Act, 1839	In section 1, the words <i>from</i> "and every word importing" to "or thing"
"	XXX	The Inheritance Act, 1839	In section 1, the words <i>from</i> "and every word importing the singular" to "a male"
1841	X	The Indian Registration of Ships Act, 1841	In section 15, the words "upon conviction" occurring between the words "liable" and "on"
			In section 23, the words "on conviction" where they occur for the second time
1852	XXX	The Indian Naturalization Act, 1852	In section 12, the words <i>from</i> "and words denoting" to "feminine"
1855	XIII	The Indian Fatal Accidents Act, 1855	In section 1, the words "And it is enacted further that"
"	XXIV	The Penal Servitude Act, 1855	In section 1, the words <i>from</i> "words denoting the singular" to "feminine gender, and"
			Section 8 so far as it has not been repealed by Act XII of 1867
			In section 15, the words <i>from</i> "words in the singular" to "construction"
1859	I	The Indian Merchant Shipping Act, 1859	In section 118, the words <i>from</i> "the words importing the singular" to "females"
1861	V	The Police Act, 1861	In section 1, the words <i>from</i> "words importing the singular" to "females"
"	XVI	The Stage Carriages Act, 1861	In section 21, the words <i>from</i> "words importing the singular" to "feminine"
			The word "Chief" wherever it occurs before the words "Commissioner of Police"
1863	XX	The Religious Endowments Act, 1863	In section 2, the words <i>from</i> "words importing the singular" to "females"
"	XXIII	The Waste Lands (Claims) Act, 1863	Section 24
1864	III	The Foreigners Act, 1864	In section 1, the words <i>from</i> "words importing the singular" to "females"
			Section 24
1865	III	The Carriers Act, 1865	In section 2, the words <i>from</i> "words in the singular" to "include the singular"
"	X	The Indian Succession Act, 1865	In section 3, the words <i>from</i> "words importing the singular" to "females"
"	XV	The Parsi Marriage and Divorce Act, 1865	In section 2, the words <i>from</i> "words in the singular" to "include the singular"
1866	XXI	The Native Converts' Marriage Dissolution Act, 1866	In section 3, the words <i>from</i> "and unless" to "include the singular"
"	XXVII	The Indian Trustee Act, 1866	In section 2, the words <i>from</i> "words importing the singular" to "female"

1	2	3	4
Year	No	Subject or short title	Extent of repeal
1867	XXII	The Sarras Act, 1867	In section 2, the words <i>from</i> 'words in the singular' <i>to</i> ' <i>vice versa</i> '
"	XXV	The Press and Registration of Books Act, 1867	In section 1, the words <i>from</i> "words in the singular" <i>to</i> "females"
"	XXXII	The Chief Commissioner's Powers Act	In the preamble, the words "any of" and "Oudh" and in section 1, the words "Oudh" and "as the case may be"
1871	I	The Cattle Trespass Act, 1871	In section 1, the sub-section (3)  In section 2b, the words <i>from</i> 'the Local Government may at any time' <i>to</i> "under this section"  In section 31, the words <i>from</i> "and may" <i>to</i> "this section"
"	XXIII	The Pensions Act, 1871	In section 1, the words <i>from</i> "And it shall" <i>to</i> "thereof"
1872	1	The Indian Evidence Act, 1872	In section 37, the words <i>from</i> 'This section applies' <i>to</i> 'Birma'
"	IX	The Indian Contract Act, 1872	In section 1, the words <i>from</i> "The enactments" <i>to</i> "thereof, but"  The Schedule.
1874	IX	The European Vagrancy Act, 1874	In section 20, the words <i>from</i> "All fines imposed" <i>to</i> "courts"
1875	XIII	The Probate and Administration Act 1875	In the preamble, the words <i>from</i> "Whereas", where it occurs for the first time, <i>to</i> the word "and" where, it occurs for the second time, and the word "also" occurring between the words "it is" and "expedient"
1876	IX	The Native Coinage Act, 1876	In section 1, the words "and it shall come into force at once"
"	XIII	The Indian Merchant Seamen's Act, 1876	In section 1, the words "and it shall come into force at once"
"	XIX	The Dramatic Performances Act, 1876	In section 1, the words "and it shall come into force at once."
1878	VI	The Indian Treasure-trove Act, 1878	In section 1, the words "and it shall come into force at once."
"	VII	The Indian Forest Act, 1878	In section 1, the word <i>from</i> "on and from" <i>to</i> "hereunder" The Schedule
"	VIII	The Sea Customs Act, 1878	Section 205.
1879	III	The Destruction of Records Act, 1879	In section 1, the words "and it shall come into force at once"  In section 8, the bracketted letter (a) and clause (b)
1880	I	The Religious Societies Act, 1880	In section 1, the words "shall come into force at once, and."
"	XII	The Kazis Act, 1880	In section 1, the words "and it shall come into force at once"
1881	XI	The Municipal Taxation Act, 1881	In section 1, the words "and shall come into force at once."
"	XVI	The Obstructions in Fairways Act, 1881	In section 1, the words "and it shall come into force at once"
1882	XII	The Indian Salt Act, 1882	In section 1, the words "and it shall come into force at once"

1	2	3	4
Year	No	Subject or short title	Extent of repeal
1882	XV	The Presidency Small Cause Courts Act, 1882	In section 19, clause (r), the words "for the recovery of a wife" Sections 83, 84, 85 and 86 In section 83, the words and figures "section 83 or"
"	XIX	The Punjab University Act, 1882	In section 1, the words "and it shall come into force at once"
1884	IV	The Indian Explosives Act, 1884	In section 6, sub-section (1), the word "and" after clause (a), and clause (b)
"	VII	The Indian Steamships Act, 1884	Section 9, sub-section (2)
"	IX	The Legal Practitioners Act, 1884	In the title, the words "and the Indian Stamp Act, 1879" In the preamble, the second clause In section 1, the word "and" after sub-section (1), and sub-section (2) Section 3
1886	X	The Indian Criminal Law Amendment Act, 1886	The heading "Indian Penal Code" Section 22.
"	XIII	The Indian Securities Act, 1886	In section 15, sub-sections (1), (2), (3) and of sub-section (4) the words from "and the" to the end
1887	II	The Sea Customs Act (1878) Amendment Act, 1887	The heading "Sea Customs Act, 1878"
"	IX	The Provincial Small Cause Courts Act, 1887	In the second schedule, in item (37), the words for the recovery of a wife"
"	XVIII	The Allahabad University Act, 1887	In section 1, the word "and" after sub-section (1), and sub-section (2)
1888	III	The Police Act, 1888	In section 1, the word "and" after sub-section (2), and sub-section (3)
"	VI	The Debtors Act, 1888	So much as is unrepealed
1889		The Metal Tokens Act, 1889	In section 1, the word "and" after sub-section (2), and sub-section (3)
"	VI	The Probate and Administration Act, 1889	In the title and preamble, the words "and the Indian Stamp Act, 1879" In section 1, the word "and" after sub-section (2), and sub-section (3) Section 8.
1890	I	The Revenue Recovery Act, 1890	In section 1, the word "and" after sub-section (2), and sub-section (3)
"	V	The Forest Act, 1890	In the title and preamble, the words "and the Burma Forest Act, 1881" In section 1, the word "and" after sub-section (1), and sub-section (2) The headings "Indian Forest Act, 1878," and "Burma Forest Act, 1881"
"	XIII	The Excise (Malt-Liquors) Act, 1890	In the title and in the preamble, the words and figures "to amend the Excise Act, 1881, and the Bengal Excise Act, 1878, and" In section 1, the word "and" after sub-section (1), and sub-section (2)

1	2	3	4
Year	No	Subject or short title	Extent of repeal.
1890	XIX	The Indian Salt Act (1882) Amendment Act, 1890	So much as is unrepealed.
1891	III	The Indian Evidence Act (1872) Amendment Act, 1891	In the title and preamble, the words "and the Code of Criminal Procedure, 1882," the heading " <i>Indian Evidence Act, 1872</i> " and the heading " <i>Code of Criminal Procedure, 1882</i> ," after section 8
"	IX	The Indian Merchandise Marks and Sea-customs Acts Amendment Act, 1891	Sections 1 and 2
"	XII	The Amending Act, 1891	In section 1, the word "and" after sub-section (2), and sub-section (3)  Sub-section (3) of section 2 and of Part I of the Second Schedule, so much as relates to Act XXI of 1879 and Act XV of 1883.
"	XIII	The Inland Steam-vessels Act (1884) Amendment Act, 1891	Section 3
"	XVI	The Colonial Courts of Admiralty (India) Act, 1891	Section 5 and the Schedule
"	XVII	The Deck and Load Lines Act, 1891	Section 5
"	XVIII	The Bankers' Books Evidence Act, 1891	In section 1, the word "and" after sub-section (2), and sub-section (3)
1892	II	The Marriage Validation Act, 1892	Section 1.
"	VI	An Act to amend the Indian Limitation Act, 1877, and the Code of Civil Procedure	So much as is unrepealed
"	VIII	The Lansdowne Bridge Act, 1892	In section 1, the word "and" after sub-section (2), and sub-section (3)
"	X	The Government Management of Private Estates Act, 1892	In section 1, the word "and" after sub-section (2), and sub-section (3)  Section 9
1893	I	The Bankers' Books Evidence Act, 1893	In section 1, the word "and" after sub-section (1), and sub-section (2)
"	IV	The Partition Act, 1893.	In section 1, the word "and" after sub-section (2), and sub-section (3)
1894	I	The Land Acquisition Act, 1894	In section 2, sub-section (1), and of sub-section (2) the word "But"
"	III	The Indian Criminal Law Amendment Act, 1894	In the title and preamble, the words and figures "the Code of Criminal Procedure, 1882, and"  The heading " <i>Indian Penal Code</i> "
"	VIII	The Indian Tariff Act, 1894	In section 1, the word "and" after sub-section (2), and sub-section (3).
"	XV	The Engineers' Certificates Validation Act, 1894	In section 1, the word "and" after sub-section (1), and sub-section (2)
1895	I	The Presidency Small Cause Courts Act, 1895	In section 3, sub-section (2)  Section 12.
"	III	The Indian Criminal Law Amendment Act, 1895.	In the title and preamble, the words and figures "Act VI of 1894 and the Indian Post Office Act, 1866"  The heading " <i>Indian Penal Code</i> ".
"	X	The Indian Railway Companies Act, 1895.	In section 1, the word "and" after sub-section (2), and sub-section (3).

1	2	3	4
Year	No	Subject or short title	Extent of repeal
1895	XV	The Crown Grants Act, 1895 .	In section 1, the word "and" after sub-section (2), and sub-section (3)
1896	II	The Cotton Duties Act, 1896 . .	In section 1, the word "and" after sub-section (2), and sub-section (3)  In section 8, sub-section (4), the words <i>from</i> "and the first of such returns" to "commencement of this Act"  Part III
"	VIII	The Inland Bonded Warehouses Act, 1896	In section 1, the word "and" after sub-section (2), and sub-section (3)  Section 4, sub-section (4)
"	IX	The Indian Railways Act (1890) Amendment Act, 1896	Section 5
"	X	The Indian Volunteers Act Amendment Act, 1896	In section 1, the word "and" after sub-section (2), and sub-section (3)
"	XII	The Excise Act, 1896	In section 1, sub-section (2), the words "the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh", the word "and" after sub-section (2), and sub-section (3)  In section 3, sub-section (1), clause (a), the words "in the territories administered by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh,—the Board of Revenue"
1897	III	The Epidemic Diseases Act, 1897 .	In section 1, the word "and" after sub-section (2), and sub-section (3).
"	IV	The Indian Fisheries Act, 1897 . .	In section 1, the word "and" after sub-section (2), and sub-section (3)
"	V	The Amending Act, 1897 . . .	In section 1, the word "and" after sub-section (1), and sub-section (2).  In Schedule II, Part II, the entry relating to Bengal Act VIII of 1862.
"	VI	The Negotiable Instruments Act Amendment Act, 1897	In section 1, the word "and" after sub-section (1), and sub-section (2).
"	VIII	The Reformatory Schools Act, 1897	In section 1, the word "and" after sub-section (1), and sub-section (2)
"	IX	The Provident Funds Act, 1897 . .	In section 1, the word "and" after sub-section (2); and sub-section (3).
"	X	The General Clauses Act, 1897 . .	In section 1, the word "and" after sub-section (1); and sub-section (2).



1	2	3	4
Year.	No	Subject or short title	Extent of repeal
1897	XIV	The Indian Short Titles Act, 1897	<p>In section 1, the word "and" after sub-section (1), and sub-section (2)</p> <p>In the schedule, the entries relating to—</p> <p>Act X of 1875</p> <p>Act V of 1887.</p> <p>Act I of 1888</p> <p>Act XX of 1889.</p> <p>Act XVIII of 1890.</p> <p>Act IV of 1891</p> <p>Act V of 1891.</p> <p>Act VI of 1892.</p> <p>Act V of 1893.</p> <p>Act II of 1894</p> <p>Act VI of 1894</p> <p>Act X of 1894.</p> <p>Act IV of 1895.</p> <p>Act XIII of 1895.</p> <p>Act I of 1896</p> <p>Act IV of 1896.</p> <p>Act V of 1896</p> <p>Act XIII of 1896</p> <p>Act XIII of 1897.</p>
1898	I	The Stage Carriages Act (1861) Amendment Act, 1898	Section 2
"	IV	The Indian Penal Code Amendment Act, 1898	In section 1, the word "and" after sub-section (1), and sub-section (2)
"	V	The Code of Criminal Procedure, 1898	<p>Section 2, and the First Schedule</p> <p>In section 471 (1), the words "and shall report the case for the orders of the Local Government"</p> <p>In section 471 (4) the word and figures "Section 472"</p>
"	VI	The Indian Post Office Act, 1898	Section 76 and the Second Schedule
"	IX	The Live stock Importation Act, 1898.	In section 1, the word "and" after sub-section (2), and sub-section (3)
"	X	The Indian Insolvency Rules Act, 1898	In section 1, the word "and" after sub-section (1), and sub-section (2).
1899	I	The Indian Marine Act (1887) Amendment Act, 1899	In section 1, the word "and" after sub-section (1), and sub-section (2)
"	II	The Indian Stamp Act, 1899 . . .	<p>In section 1, sub-section (2), the words "Upper Burma."</p> <p>Section 79 and the Second Schedule</p>
"	III	The Presidency Small Cause Courts, Act, 1899.	In section 1, the word "and" after sub-section (1); and sub-section (2).

1	2	3	4
Year	No.	Subject or short title.	Extent of repeal.
1899	IV	The Government Buildings Act, 1899	In section 1, the word "and" after sub-section (2), and sub-section (3)
"	V	The Indian Evidence Act, 1899	In section 1, the word "and" after sub-section (1), and sub-section (2) Section 2 Section 5
"	VII	The Inland Steam-vessels Act (1884) Amendment Act, 1899	In section 1, the word "and" after sub-section (1), and sub-section (2)
"	VIII	The Indian Petroleum Act, 1899	In section 1, the word "and" after sub-section (1), and sub-section (2) Section 25 and the Second Schedule
"	XI	The Court-fees Amendment Act, 1899	In section 1, the word "and" after sub-section (1), and sub-section (2) Section 4
"	XII	The Currency Notes Forgery Act, 1899	In section 1, the word "and" after sub-section (1), and sub-section (2).
"	XIII	The Glanders and Farcy Act, 1899	In section 1, the word "and" after sub-section (2), and sub-section (3) Section 17 and the schedule
"	XIV	The Indian Tariff Amendment Act, 1899	In section 1, the word "and" after sub-section (1), and sub-section (2)
"	XVIII	The Land Improvement Loans (Amendment) Act, 1899	In section 1, the word "and" after sub-section (1), and sub-section (2)
"	XIX	The Currency Conversion (Amendment) Act, 1899	In section 1, the word "and" after sub-section (2), and sub-section (3)
"	XX	The Presidency Banks Act, 1899	In section 1, the word "and" after sub-section (1), and sub-section (2).
"	XXIII	The Church of Scotland Kirk Sessions Act, 1899	In section 1, the word "and" after sub-section (2), and sub-section (3)
1900	II	The Transfer of Property Act, 1900	In section 1, the word "and" after sub-section (1), and sub-section (2)
"	III	The Prisoners Act, 1900	In section 1, the word "and" after sub-section (2), and sub-section (3) Section 53 and the Third Schedule
"	VI	The Lower Burma Courts Act, 1900	In Schedule I, Part I, the entries relating to Act II of 1877 and Act V of 1881.
"	VII	Amending Act XIX of 1899	Section 2
"	XII	The Bankers' Books Evidence Act, 1900	In section 1, the word "and" after sub-section (1), and sub-section (2).
1901	II	The Indian Tolls (Army) Act, 1901	Section 8 and of the Schedule so much as is unrepealed
"	V	The Indian Forest (Amendment) Act, 1901	In section 1, the word "and" after sub-section (1), and sub-section (2).
"	VII	The Native Christian Administration of Estates Act, 1901	In section 1, the word "and" after sub-section (1), and sub-section (2).
"	VIII	The Indian Mines Act, 1901	In section 1, the word "and" after sub-section (2), and sub-section (3). Section 33.

1	2	3	4
Year.	No	Subject or short title	Extent of repeal
1901	X	The Court-fees (Amendment) Act, 1901	In section 1, the word "and" after sub-section (1), and sub-section (2)
"	XI	The Amending Act, 1901	In the title, the words "and repeal" and "obsolete"  In section 1, the word "and" after sub-section (1), and sub-section (2)
1902	III	The Indian Steamships (Amending and Validating) Act, 1902	Section 2
"	VI	Act to abolish the Pandharu Tax	The whole Act
"	VIII	The Indian Tariff (Amendment) Act, 1902	Section 3
1903	I	The Repealing and Amending Act, 1903	In the title, the words "and to repeal certain other enactments"  In the preamble, the third <i>clause</i> .  In section 1, the words "Repealing and"  Sections 4 and 5 and the Third Schedule  In the First Schedule, in Part III, the entry relating to Bengal Act VIII of 1862
"	VIII	The Probate and Administration Act, 1903	Section 4
"	X	The Victoria Memorial Act, 1903	In section 1, the word "and" after sub-section (1), and sub-section (2).
"	XII	The Indian Tariff (Amendment) Act, 1903	In section 1, sub-section (2), and section 3
"	XV	The Indian Extradition Act, 1903	Section 24 and the Second Schedule
1904	VIII	The Indian Universities Act, 1904	Sections 12 and 29 and the Second Schedule.
"	XI	An Act to revive and continue section 8 (b) of the Indian Tariff Act, 1894	Section 2.
"	XV	The Indian Stamp (Amendment) Act, 1904	In section 1, sub-section (2), the words "Upper Burma"
"	XVI	The Sea Customs (Amendment) Act, 1904	The whole Act.
1905	II	The Indian Universities (Validation) Act, 1905	The whole Act
1906	III	The Indian Comage Act, 1906	In section 24, the first <i>clause</i> , and the words "Provided that" and "notwithstanding the repeal of the said Acts", and the schedule.
"	VIII	The Land Improvement and Agriculturists' Loans (Amendment) Act, 1906.	Sections 2, 3 and 5.
1908	V	The Code of Civil Procedure, 1908	In section 80, sub-section (2), the bracketted letter (a), the word "or" after clause (a) and clause (b).
"	XVII	The Indian Emigration Act, 1908	Section 110 and the Fourth Schedule.
1909	III	The Presidency-towns Insolvency Act, 1909	In section 127, the first sub-section and the first seven words of sub-section (2)  The Third Schedule

1	2	3	4
Year.	No	Subject or short title	Extent of repeal.
1910	II	The Indian Paper Currency Act, 1910	In section 30, the words <i>from</i> "The enactments" to "thereof" and "Provided that" and "Provided also that", and the schedule
"	VI	The Indian Stamp (Amendment) Act, 1910	In section 3, clause (ii)
"	X	The Indian Museum Act, 1910	Section 17
"	XV	The Cantonments Act, 1910	Section 31 and the Schedule.
1911	III	The Criminal Tribes Act, 1911 .	Section 29.
"	XII	The Indian Factories Act, 1911 .	In section 33, sub-section (2), the words <i>from</i> "within one month of the commencement of this Act, or" to "this Act"

*Regulations by the Governor General in Council.*

1900	V	The Coorg Land and Revenue Regulation, 1900	The whole
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*Bengal Regulations*

1883	IX	The Bengal Land Revenue (Settlement and Deputy Collectors, Regulation, 1883	Sections 17, 18 and 25.
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*Acts of the Lieutenant-Governor of Bengal in Council.*

1862	VIII	The Bengal Zamindari D&A Act, 1862 .	The whole Act
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W H VINCENT,  
Secretary to the Government of India.

GOVERNMENT OF INDIA  
**LEGISLATIVE DEPARTMENT.**

The following Report of the Select Committee on the Bill to amend the Indian Companies Act, 1913, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 24th February, 1914 -

We, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Companies Act, 1913, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto

Paper No 1—From Vernon B F Bayley, Esq, Solicitor, Bombay, dated 24th June, 1913

Papers No 2—Endorsement by Government of India, Department of Commerce and Industry, No 6340—I, dated 6th August, 1913, from Secretary Revenue and Statistics Department, India Office, No R & S-2473, dated 15th July, 1913, from Secretary, Revenue and Statistics Department, India Office, to Comptroller, Companies Department, Board of Trade, No R & S-1463, dated 26th May, 1913, from Board of Trade, to Under Secretary of State for India, Revenue Department, No 1801, dated 11th July, 1913, and from President and Honorary Secretary, Bhatia Mitra Mandal, Bombay, dated 31st July, 1913

Papers No 3—From Agent to Governor General, Rajputana, and Chief Commissioner, Ajmer-Merwara, No 1060, dated 26th July, 1913, from Chief Commissioner, Coorg, No 1952, dated 29th July, 1913, from Chief Commissioner, North-West Frontier Province, No 875-N, dated 12th August, 1913, and from Agent to Governor General and Chief Commissioner, Baluchistan, No 114—R, dated 15th August, 1913, and enclosures

Papers No 4—Endorsement by Government of India, Department of Commerce and Industry, No 6782—1, dated 20th August, 1913, from Chief Commissioner, Central Provinces, No 703-VIII—331, dated 11th August, 1913, and from Chief Commissioner, Delhi, No 6185 Legislative dated 23rd August, 1913, and enclosure

Papers No 5—From Government, Madras, No 1752, dated 29th August, 1913, and enclosures

Papers No 6—From Chief Commissioner, Assam, No 1300-J, dated 30th August, 1913, and enclosures

Papers No 7—From Government, Burma, No 835—1 C-0, dated 25th August, 1913, and from Government, Punjab, No 2371-S (C & I), dated 30th August, 1913, and enclosures

Paper No 8—From Government, United Provinces, No 1220, dated 4th September, 1913

Papers No 9—From Government, Bombay, No 8242, dated 6th September, 1913, and enclosures from High Court, Calcutta, No 3390, dated 4th September, 1913, and from Government, Bihar and Orissa, No 8168 I J 6, dated 8th September, 1913, and enclosures

Papers No 10—From Government, Bombay, No 9002, dated 2nd October, 1913, and enclosures

Papers No 11—Endorsement by Government of India, Department of Commerce and Industry, No 8601—1, dated 14th October, 1913, and from Chamber of Commerce, Bombay, No 849, dated 2nd October, 1913

Papers No 12—From Government, Madras, No 2082, dated 14th October, 1913, and from Chamber of Commerce, Madras, dated 9th October, 1913

Papers No 13—From Government, Bengal, No 1393-7—Miscellaneous, dated 18th October, 1913, and enclosures

Papers No 14—From Secretary, Judicial and Public Department, India Office, London, No J and P 3839, dated 31st October, 1913 and enclosures

tered after the commencement of the Act At the same time, however, we feel that along with

this relaxation we may reasonably require new companies, to which alone the clause will now apply, to have at least two directors. The law will then prevent the anomaly of a board consisting of a single director. It was suggested to us, and we have duly considered the point, that this clause might give rise to difficulties of interpretation in connection with the definition of "director" in the main Act, but we are of opinion that the provisions of the Bill as revised by us do not touch this matter.

3 We have modified the language of clause 83B, sub-clause (iii), to meet the criticisms which have been received. As the clause now stands in the Bill, it follows very closely the language of article 84 of Table A in the first Schedule to the Act of 1913.

4 It will be observed that in the Bill as revised by us clause 83C has been deleted. The provisions of this clause have been objected to by the Bombay and Bengal Chambers of Commerce, bodies which represent an important section of commercial opinion. We have unfortunately not had the advantage of a discussion with Sir Charles Ainslie, the representative of the Bombay Chamber of Commerce, for although a member of this Committee, he did not attend our meetings, but Mr. Monteath, the representative of the Bengal Chamber of Commerce, has laid his views before us. It has been suggested that the clause will be inoperative, and that, unless a much more radical modification in the general company law is made than is now contemplated, no useful purpose will be served by its retention. We do not attach much importance to this objection and we have little doubt that, with some verbal alterations, the clause might easily be made to serve the purpose for which it was intended, that is, to provide, in the case of companies managed by a firm of managing agents, for a majority of independent directors. We are, however, more influenced by another type of criticism to which the clause has been subjected. It has been pointed out that, where the shareholders in a company choose to exercise their powers, they may, in the case for which clause 83C provides, themselves elect an independent majority on the Board. It is suggested that the recently enacted Indian Companies Act, 1913, provides for the supply to shareholders of such ample information concerning the management of the company that they will have a strong incentive to provide this independent directorate whenever they consider it necessary, and that the working of the Act in this direction might well be tested by experience before providing this form of directorate by law. The majority of the Committee, while agreeing that the object aimed at in clause 83C is in itself desirable, have no objection to postponing the enactment of the clause until shareholders generally have had a fair opportunity of showing whether they will exercise their undoubted powers in this connection. The clause has therefore been withdrawn. We regret that this withdrawal has been opposed by certain members who desire its immediate enactment as will appear from the dissentient minute which is attached to this Report.

5 We have received proposals for the insertion of three exceptions to the rule laid down by clause 91A of the Bill submitted to us. The first was that preliminary agreements specifically mentioned in the memorandum or articles of association should be excluded. We think on the whole that no such exception need be provided, and we have discarded the suggestion. The second suggestion was that contracts of indemnity entered into by the directors on behalf of the company should be excluded, and this suggestion we have accepted and given effect to in the Bill. We have also accepted the suggestion that, where a director is a member of any specified firm or company, a general notice of the fact shall be a sufficient disclosure to his fellow-directors of such fact for the purposes of future transactions with such firm or company. Criticism has been directed to the fact that no penalty was annexed to the first portion of clause 91A as it stood in the Bill submitted to us. This point did not escape attention when these clauses were considered last year by the Select Committee of which most of us were members, and considerable difference of opinion was then disclosed as to the expediency of such a penalty. We, however, are now satisfied, in view of the opinions we have received, that no valid objection exists to the imposition of a definite penalty for breach of the provisions in question and we have accordingly provided one. In view of the provisos we have added, we have considered it desirable to redraft and break up the first part of clause 91A as it stood in the Bill referred to us. It now appears in the Bill annexed to this Report as clause 91A and clause 91B.

6 We have very carefully examined the drafting of clause 91B, sub-clause (iii) (a), in view of the criticisms thereon which have been received from quarters which naturally command our greatest respect, but it seems to us, after full consideration, that the Bill as drawn is not susceptible of misconception, and that any alteration would not be an improvement, as the clause seems to us to give effect to our intention. The case contemplated is one where the company (A) is the undisclosed principal, and (B) is the agent contracting on behalf of the undisclosed principal, and (C) is the third party. It appears to us that as regards (A) and (C) there can be no privity of contract, and that the contract referred to in the clause must be the contract between the Company and the agent, and that in giving the company the option of disclaiming its agent's action, if he fails to comply with the statutory directions of the clause, we have imposed no harsh or inequitable rule. The third party merely had the agent to look to when he made the contract and will still have the agent to look to in the circumstances contemplated by the sub-clause.

7. Beyond slight verbal alterations, we have made no other change in the Bill.

8 The publication ordered under rule 23 of the Rules of Legislative Business has been made as follows —

<i>Gazette</i>	<i>In English</i>	<i>Date.</i>
Gazette of India	.	26th April, 1913.
Port Saint George Gazette	.	13th May, 1913.
Bombay Government Gazette	.	1st May, 1913
Sind Official Gazette	.	24th July, 1913.
Calcutta Gazette	.	7th May, 1913.
Bihar and Orissa Gazette	.	7th May, 1913.
United Provinces of Agra and Oudh Gazette	.	3rd May, 1913.
Punjab Government Gazette	.	2nd May, 1913
Burma Gazette	.	10th May, 1913.
Central Provinces Gazette	.	3rd May, 1913.
Assam Gazette	.	7th May, 1913
Coorg District Gazette	.	2nd June, 1913
North-West Frontier Province Gazette	.	2nd May, 1913.

<i>Province</i>	<i>In the Vernaculars</i>	<i>Language.</i>	<i>Date</i>
Madras	.	Tamil	} 2nd September, 1913
	.	Telugu	
	.	Hindustani	
	.	Kanarese	
	.	Malayalam	
Bombay	.	Marathi	} 10th July, 1913.
	.	Gujarathi	
	.	Kanarese	
Sindh	.	Sindhi	17th July, 1913.
United Provinces of Agra and Oudh Gazette	.	Urdu	16th August, 1913.
Burma	.	Burmese	24th May, 1913.
Coorg	.	Kanarese	2nd October, 1913.

9 We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended

W. H CLARK.  
 SYED ALI IMAM  
 A M MONTEATH.  
 S R. ARTHUR  
 IBRAHIM RAHIMTOOLA.\*  
 FAZULBHOY CURRIMBHOY.  
 C VIJARAGHAVACHARIAR \*  
 V R PANDIT \*  
 R E ENTHOVEN  
 G H B KENRICK  
 C H KESTEVEN  
 E E MEUGENS.  
 SITA NATH ROY  
 L M WYNCH  
 W F RICE  
 W H COBB  
 JAMES DONALD

*The 23rd February, 1914.*

\* Subject to Minute of Dissent

### MINUTE OF DISSENT BY SIR IBRAHIM RAHIMTOOLA

I do not agree with the decision of the majority of the Select Committee to delete clause 83C. The Committee in explaining the reasons which have influenced them to omit the clause say "We are however more influenced by another type of criticism to which the clause has been subjected. It has been pointed out that where the shareholders in a Company choose to exercise their powers, they may in the case for which clause 83C provides themselves elect an independent majority on the Board. It is suggested that the recently enacted Indian Companies Act provides for the supply to shareholders of such ample information concerning the management of the Company that they will have a strong incentive to provide this independent directorate whenever they consider it necessary, and that the working of the Act in this direction might well be tested by experience before providing this form of directorate by law. The majority of the Committee, while agreeing that the object aimed at in clause 83C is in itself desirable, have no objection to postponing the enactment of the clause until shareholders generally have had a fair opportunity of showing whether they will exercise their undoubted powers in this connection."

The appointment of the directors has always been in the hands of the shareholders. The Indian Companies Act of 1882 distinctly laid this down. Ample experience has been gained during more than 30 years to show that this power has not been in reality exercised by the shareholders. What is the use therefore of waiting some years more before enacting a wholesome provision like this one? It is necessary to change the nature of the shareholders before expecting that the greater information which will now be available under the law will have the effect of bringing them to the point of exercising that potent influence in the management of Joint Stock Companies, which it is then right to do. But even assuming for argument's sake that a new spirit will arise amongst the shareholders as a body, and that they will elect independent men as directors, where is then the objection to enact the clause now? The Select Committee is unanimous in holding that this clause is desirable. The answer therefore to the objections of the majority is simple enough. If the shareholders of any Company exercise the powers vesting in them and manage to secure a majority of independent directors, the enactment of the clause can be open to no objection. If, however, the shareholders of any Company are so indifferent as not to exercise such powers, the law ought to come to their rescue and make it compulsory that it shall be done. If the clause is desirable in the general public interests why not enact it now, instead of waiting for experience, which has been abundantly gained during more than 30 years of the working of the Company law? Those of us who are conversant with the working of companies by managing agents and the apathy and indifference of shareholders as a body cannot but strongly press that the wholesome provision embodied in clause 83C should be enacted now and not at a later and indefinite date.

The object of company legislation is to protect the interests of the shareholders. It is because the interests of the shareholders as a body require protection that the State legislates for the purpose. If the shareholders were capable of looking after their corporate interests effectively many of the clauses which now find place in Company law would be superfluous. Such being the case, I think it is necessary that this Council should proceed to enact the clause now instead of waiting for an indefinite period.

The power of appointing auditors has vested in the shareholders all this time. The manner in which they have exercised this right is also known. Why is that power not continued to the shareholders as freely and as independently as before in view of the fact that so much information will now be available to them and that they may be expected to appoint the right persons as auditors? Why has the State taken power to lay down from what class of people the auditors shall be chosen?

I should like to invite the attention of the Council to the Statement of Objects and Reasons which was published as justifying the present legislation. It is stated therein that "The object of this Bill is to supplement the Indian Companies Act in respect of certain matters relating to the internal management of Companies. This supplemental legislation was considered desirable by the Select Committee of the latter Bill in view of the system to a large extent peculiar to India by which some Companies are managed by firms of managing agents whose relationship to the Companies they manage is different from that of a director to his company in England. . . . The provisions of this Bill are designed to secure, firstly, that every Company should have directors, secondly, that the *majority of the directors of every Company shall be independent of the managing agents*, exception being made in the case of private Companies and of Companies in which the managing agents themselves hold a predominant voting power, thirdly. . . ."

By the omission of the clause in question, one of the most important objects with which this legislation was undertaken will be defeated.

I do not wish to lengthen this Minute by stating here several other reasons which I intend to advance in support of the retention of the clause in question. I reserve them for the debate on the subject.

IBRAHIM RAHIMTOOLA



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MINUTE OF DISSENT BY THE HON'BLE MESSRS. V. R. PANDIT AND  
C. VIJIARAGHAVACHARIAR.

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We regret the necessity for having to dissent from the Report approved in its entirety by a majority of our colleagues on this Select Committee. We hold very strongly the view that the deletion of clause 83C of the Bill referred to the Committee is unjustifiable and will tend very largely to frustrate the object with which the Bill was introduced into the Legislative Council. The provisions of that clause had practically received the unanimous support of the Select Committee which considered the Bill subsequently passed as the Indian Companies' Act, 1913, and although in deference to the desire expressed in certain quarters for a formal circulation of the provisions of the Bill of this year the clauses embodying them were held over and the fullest circulation given to them they have again received the unanimous support of all the Local Governments and very strong support from most of the other officials as well as from all save a few of the non-official bodies and gentlemen consulted. We have carefully considered the opinions which were opposed to the provisions of clause 83C but we fail to find therein any new arguments or points of view which were not before the Select Committee of last year. We cannot also, we regret to say, subscribe to the view of the majority of our colleagues as to the weight to be attached to the type of criticism referred to in the Report as having influenced them and as to the advisability of postponing the enactment of the clause, and we adhere to our view expressed in the Select Committee as to the necessity for their enactment on the present occasion.

2. We also respectfully dissent from the view of the majority of our colleagues that companies registered up to the 1st April, 1914, should be excluded from the purview of clause 81A of the Bill as originally drafted or in other words exempted from the obligation to have at least two Directors. This exemption would materially impair the utility of the present Bill, which was introduced with the main object of seeing that no company which was not a private company carried on business without having such a minimum number of Directors.

V. R. PANDIT.

C. VIJIARAGHAVACHARIAR.

[AS AMENDED BY THE SELECT COMMITTEE]

[Words printed in italics indicate amendments suggested by the Select Committee]

A  
BILL  
TO

*Amend the Indian Companies Act, 1913*

WHEREAS it is expedient to amend the Indian Companies Act, 1913 It is hereby enacted as follows —

VII of 1913

1. This Act may be called the Indian Companies (Amendment) Act, 1914

2. After section 83 of the Indian Companies Act, 1913 (hereinafter referred to as the said Act), the following heading and sections shall be inserted, namely —

VII of 1913

Insertion of new sections 83A and 83B in Indian Companies Act, 1913

*“ Directors*  
**83A.** (1) Every company registered after the commencement of this Act shall have at least two directors

(2) This section shall not apply to a private company

**83B.** In default of and subject to any regulations in the articles of a company other than a private company —

(i) the subscribers of the memorandum shall be deemed to be the directors of the company until the first directors shall have been appointed,

(ii) the directors of the company shall be appointed by the members in general meeting, and

(iii) any casual vacancy occurring among the directors may be filled up by the directors, but the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last appointed a director”

3 After section 91 of the said Act the following sections shall be inserted, namely —

Insertion of new sections 91A, 91B, 91C and 91D in Indian Companies Act, 1913

**“ 91A** (1) Every director who is directly or indirectly concerned or interested in any contract or arrangement entered into by or on behalf of the company shall disclose the nature of his interest at the meeting of the directors at which the contract or arrangement is determined on, if his interest then exists, or in any other case at the first meeting of the directors after the acquisition of his interest or the making of the contract or arrangement.

Provided that a general notice that a director is a member of any specified firm or company, and is to be regarded as interested in any subsequent transaction with such firm or company, shall as regards any such transaction be sufficient

disclosure within the meaning of this sub-section and after such general notice, it shall not be necessary to give any special notice relating to any particular transaction with such firm or company

(2) Every director who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding one thousand rupees

**91B.** (1) No director shall, as a director, vote on any contract or arrangement in which he is either directly or indirectly concerned or interested, and if he does so vote his vote shall not be counted

Provided that the directors or any of them may vote on any contract of indemnity against any loss which they or any one or more of them may suffer by reason of becoming or being sureties or surety for the company

(2) Every director who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding one thousand rupees

**91C.** (1) Where a company enters into a contract for the appointment of a manager of the company in which contract any director of the company is directly or indirectly concerned or interested, or varies any such existing contract, the company shall send an abstract of the terms of such contract or variation, as the case may be, together with a memorandum clearly indicating the nature of the interest of the director in such contract, or in such variation, to every member; and the contract shall be open to the inspection of any member at the registered office of the company

(2) If a company makes default in complying with the requirements of sub-section (1), it shall be liable to a fine not exceeding one thousand rupees, and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty

**91D.** (1) Every manager or other agent of a company other than a private company who enters into a contract for or on behalf of the company in which contract the company is an undisclosed principal shall, at the time of entering into the contract, make a memorandum in writing of the terms of the contract, and specify therein the person with whom it has been made

(2) Every such manager or other agent shall forthwith deliver the memorandum aforesaid to the company, and such memorandum shall be filed in the office of the company and laid before the directors at the next directors' meeting.

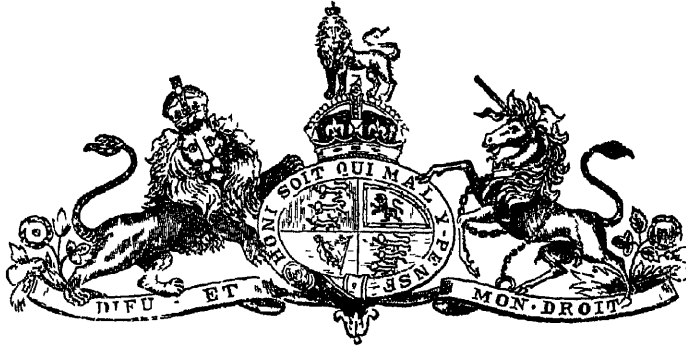
(3) If any such manager or other agent makes default in complying with the requirements of this section —

(a) the contract shall, at the option of the company, be void as against the company, and

(b) such manager or other agent shall be liable to a fine not exceeding two hundred rupees.”

W. H. VINCENT,

Secretary to the Government of India.



# The Gazette of India.

PUBLISHED BY AUTHORITY.

DELHI, SATURDAY, MARCH 21, 1914.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th March 1914 :—

#### No 2 OF 1914

*A Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898*

WHEREAS it is expedient further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, It is hereby enacted as follows :—

- 1 This Act may be called the Indian Criminal Law (Amendment) Act, 1914

#### THE INDIAN PENAL CODE

XLV of 1860

2 After section 228 of the Indian Penal Code the following sections shall be added, namely :—

“ 228A Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into contempt, or lowers or attempts to lower, the authority—

- (a) of any Court of Justice, or  
(b) of any person empowered by law to record or direct the recording of evidence on oath (when exercising such powers),

shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

*Exception*—It is not an offence under this section to comment on the action of any Court of Justice or person referred to in clause (b), provided that any such comments are in substance true and made in good faith for the public good

“ 228B Whoever, during the pendency of a judicial proceeding, by words, either spoken or written, or by signs, or by visible representation, or otherwise, makes or publishes—

- (a) a false or misleading report of such proceeding or any stage thereof, or  
(b) any comments relating to such proceeding or regarding the presiding officer, the parties, witnesses, assessors, jurors or pleaders concerned in such proceeding, knowing or having reason to believe that such comments may cause or tend to cause prejudice in the public mind in regard to such proceeding, or prejudice or tend to prejudice the trial thereof,

shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

*Explanation 1.*—A judicial proceeding for the purposes of this section includes any proceeding in the course of which evidence is or may be legally taken on oath.

*Explanation 2.*—A true, full and fair report of a judicial proceeding or any stage thereof does not constitute an offence under this section.

*Explanation 3.*—A judicial proceeding which has become abortive, rendering a new judicial proceeding necessary, is a pending judicial proceeding within the meaning of this section."

#### THE CODE OF CRIMINAL PROCEDURE.

3. In section 196 of the Code of Criminal Procedure, 1898, after the V of 1898. Amendment of section 196 of Act V of 1898. words figures and letter "or section 153A" the words figures and letters "or section 228A or section 228B" shall be inserted and to the marginal note of the said section the words "and certain contempts of Court" shall be added.

4. In Schedule II to the said Code, after the Addition to Schedule II, entries relating to section Act V, 1898. 228, the entries contained in the Schedule hereto annexed shall be inserted.

#### THE SCHEDULE.

(See section 4.)

228A.	Contempt of Court or person empowered by law to record evidence on oath.	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Simple imprisonment for six months, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
228B.	Publication of false or misleading report of judicial proceeding or of imputation on parties to such proceeding calculated to cause prejudice in the public mind.	Ditto	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.

## STATEMENT OF OBJECTS AND REASONS

WHEN the Penal Code became law in 1860 conditions in India were such that its framers were in a position to disregard that class of contempt which is known to English law as scandalizing the Courts. But subsequent developments have demonstrated the necessity of affording greater protection to the Courts against attempts to lower their prestige, and of checking the practice, which has manifested itself to a serious extent in recent years, of commenting on cases pending before the Courts in a manner which constitutes a serious menace to the dispassionate administration of public justice.

Section 228, Indian Penal Code, renders punishable an intentional insult or interruption to a public servant sitting in a judicial proceeding, but does not provide for the punishment of contempts of the authority of judicial officers not committed in their presence, or of improper comments on their proceedings in cases under trial. A recent decision of the Calcutta High Court, *In re the King-Emperor versus Girindia Mohan Das and others*, read with the decision of the Madras High Court, *In re K Venkata Rao* (XXI, Madras, Law Journal, 832), has raised doubts how far a Chartered High Court can protect subordinate Courts in respect of such contempts, and it is also at least questionable whether the unrestricted jurisdiction of any Court to punish contempts summarily is the best way of combating the evil. The trend of modern opinion is rather in the direction of dealing with contempts as a substantive offence and not as a matter to be dealt with summarily, and this is more particularly desirable where the contempt is not committed in open Court.

The draft Bill accordingly proposes to make punishable, by amendment of the Indian Penal Code,—

- (1) the contempt of the authority of Courts or persons empowered by law to record evidence on oath, and
- (2) the publication of false or misleading reports of pending cases, or of objectionable comments upon them.

At the same time, in order to safeguard the proper exercise of these powers, an amendment of the Code of Criminal Procedure is provided for, so that prosecutions for the above offences shall be undertaken only upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in this behalf, and that such cases shall be triable only by a Presidency Magistrate or a Magistrate of the first class.

Certain exceptions and explanations have also been inserted in the draft Bill, which are designed to protect *bona fide* comments or reports

R H CRADDOCK

*The 20th February, 1914*

W H VINCENT,  
*Secretary to the Government of India.*



**GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT**

The following Report of the Select Committee on the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th March, 1914

- WE, the undersigned, Members of the Select Committee to which the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto
- Papers No. 1.—From Government, Madras, No 2016, dated 16th December, 1913, and enclosures
- Papers No 2.—From Chief Commissioner, Delhi, No 9023-Legislative, dated 10th December, 1913, and from Chief Commissioner, North West Frontier Province, No 2090-C, dated 10th December, 1913
- Papers No 3.—From Agent to Governor General and Chief Commissioner, Baluchistan, No 605 dated 28th October, 1913, from Chief Commissioner, Coorg, No 28 2 dated 14th November, 1913, from Chief Commissioner, Ajmer-Merwara, No 1164 C, dated 23rd November, 1913, from Registrar, High Court, Calcutta, No 4422, dated 5th December 1913, and from Chief Commissioner, Assam, No 7030-L, dated 10th December, 1913, and enclosures
- Paper No 4.—From Government, Burma, No 534-L-5, dated 12th December, 1913
- Paper No 5.—From Chief Commissioner, Central Provinces, No C-652, dated 13th December, 1913
- Papers No 6.—From Government, Bihar and Orissa, No 1087-J, dated 16th December, 1913, and enclosures
- Papers No 7.—From Government, Punjab, No 1100 (Home-Judl), dated 27th December, 1913, and enclosures
- Paper No 8.—From Government, Bombay, No 281, dated 9th January, 1914
- Papers No 9.—From Government, United Provinces, No 202, dated 16th January, 1914, and enclosures
- Papers No 10.—From Government, Bengal, No 933-P, dated 27th January, 1914, and enclosures
- Papers No 11.—Endorsement by the Government of India, Home Department, No 1002-C, dated 14th February, 1914, and memorial from the Bombay Presidency Social Reform Association, dated 10th February, 1914

by the personal law of the community to which they belong, is not illicit intercourse within the meaning of section 372 and section 373 of the Indian Penal Code. It appears to us that the clause as re-drawn gives effect to the intention of the Bill in a more definite manner than the clause contained in the Bill committed to us

3 In deference to some opinions we have received we have modified the language of the first paragraph of clause 3 so as to provide that a presumption similar to that which is proposed in the Bill as regards prostitutes shall apply to cases in which minors are disposed of to brothel-keepers. This change has necessitated a consequential amendment in clause 4

4 The provisions of the Bill dealing with the question of the custody of minors have been discussed by us at great length, and have received our most careful attention. We have considered all possible aspects of the case, and have endeavoured, as far as possible, to meet the views of individual members of the Committee

5 The main changes which we have made are summarised below :

In the first place, we have amended the Bill so as to admit of orders under the provisions in question being made by any first class Magistrate specially empowered in this behalf by the Local Government. We think such an extension of jurisdiction will be convenient and free from danger. We have, on the other hand, restricted the manner in which proceedings can be instituted, by providing that no Magistrate shall take action under these provisions, save on information received from some person other than a Police-officer.

6. It has been brought to our notice that the fact that a girl is living in a house used for prostitution, is not, having regard to conditions in India, a circumstance which would neces-

sarily justify the presumption raised by the English law in such a case, we have therefore amended sub-clause (b) of the proposed section 552A (1), so as to elucidate the fact that only girls who are in danger of prostitution are intended to come within the scope of the sub-clause, and with the same object, we have deleted the words "or seduction" from the same sub-clause

7 We were much pressed to restrict the power of the Magistrate in selecting a custodian to the appointment of a person of the same religion as the minor. After much deliberation, we have arrived at the decision which is embodied in the Bill as amended, namely, that where the religion of the minor is known or can be ascertained, she shall not be made over to any custody other than that of a co-religionist. We have also added a clause which provides that in determining the person to whom custody of a minor should be committed, preference shall be given to a relative. There are in our opinion obvious reasons for giving preference to a relative in such cases.

8 We have inserted a clause authorising the Magistrate to accept security from the guardian of a minor in lieu of making an order committing such minor to other custody. We think that there may be cases in which the interests of the minor will be sufficiently safeguarded if such security is furnished.

9 The Bill as introduced empowered Magistrates to commit minors to suitable custody until they attained the age of majority. It was represented to us that, regard being had to the conditions of this country, no useful purpose would be served by permitting the custody to continue for so extended a period. We have therefore modified the Bill so as to provide that orders under these provisions shall only have effect until the minor attains the age of sixteen, or for such shorter period as the Magistrate thinks fit. We observe that the English law in a somewhat analogous case prescribes the same age.

10 As an additional safeguard, we have also provided for an appeal against any order committing a minor to custody, and for the guidance of Magistrates taking proceedings under these provisions of the law, we have incorporated in the Bill directions which are based on the provisions of the Guardians and Wards Act, 1890. Finally, we have inserted a clause which renders the custodian of a minor who fails to observe the conditions annexed to an order of custody liable to punishment in the Criminal Courts.

11 We have deleted that portion of clause 6 of the Bill which provided for the realisation of the cost of maintenance of a minor from the parent or person liable to support her, as it has been suggested to us that such a provision might, in some cases, give rise to complications and hardship.

12 We have inserted a new clause definitely to provide for the procedure to be adopted by Magistrates taking action under these clauses, and the Bill as amended lays down that no order committing a minor to custody shall be made, until those interested in the minor have had an opportunity of showing cause and adducing evidence to prove that an order is unnecessary.

13 We have made provision for a case in which the minor dealt with under these provisions is removed beyond the jurisdiction of the Magistrate making the original order.

14 We have expanded the provisions of the Bill as submitted to us, to provide more definitely for the saving of the powers of Civil Courts, and have also made provision for a like saving in the case of Courts of Wards.

The remaining amendments are not of sufficient importance to make it necessary for us to deal with them in detail in this Report.

15. The publication ordered by the Council has been made as follows.—

<i>Gazette.</i>	<i>In English.</i>	<i>Date</i>
Gazette of India	.	20th September, 1913.
Fort Saint George Gazette	.	7th October, 1913.
Bombay Government Gazette	.	2nd October, 1913.
Calcutta Gazette	.	1st October, 1913.
Bihar and Orissa Government Gazette	.	1st October, 1913.
United Provinces Gazette	.	27th September, 1913.
Punjab Government Gazette	.	26th September, 1913.
Burma Gazette	.	25th October, 1913.
Central Provinces Gazette	.	27th September, 1913.
Assam Gazette	.	1st October, 1913.
Coorg District Gazette	.	2nd October, 1913.
Sind Official Gazette	.	2nd October, 1913.
North-West Frontier Province Gazette	.	3rd October, 1913.



*In the Vernaculars*

<i>Province</i>	<i>Language</i>	<i>Date.</i>
Madras . . . .	Tamil .	4th November, 1913
	Telugu .	
	Hindustani .	
	Kanarese .	
	Malayalam .	
Bombay . . . .	Urdu .	11th November, 1913.
	Marathi .	20th November, 1913
	Gujarathi .	
	Kanarese .	
Bengal .	Bengali in "Dasumati" of	29th November, 1913
Bihar and Orissa .	Urdu	8th November, 1913.
United Provinces	Urdu	6th December, 1913
Punjab	Urdu .	5th December, 1913.
Burma . . . .	Burmese	8th November, 1913.
Cooch .	Kanarese	1st December, 1913.
Sindh . . . .	Sindhi	20th November 1913.

16 We think that the Bill has been so materially altered as to render it desirable that it should be re-published, and we accordingly recommend that it be re-published for general information

R H CRADDOCK

ALI IMAM

W H VINCENT

H WHEELER

C VIJIARAGHAVACHARIAR \*

S R ARTHUR

DALJIT SINGH

V. R. PANDIT \*

SYED ABU JAFAR

M M MALAVIYA \*

M S DAS \*

SURENDRANATH BANERJI \*

W F RICE

L M WYNCH

H M LAURIE.

*The 9th March, 1914*

\* Subject to minute of dissent

## MINUTE OF DISSENT BY THE HON'BLE MR C. VIJIARAGHAVACHARIAR

THE amendments which have been made in Select Committee have removed some of the defects to which I drew attention when this Bill was referred to Select Committee, but it is still open to serious objections in many particulars. The more important of these provisions are noted below.—

2 I consider that any measure intended to secure the protection of minor girls against immoral contamination will not adequately effect the desired purpose unless intercourse with unmarried girls under the age of, at least, 14 years is made a penal offence. In view of the existing conditions of society in India I recognise that it is inexpedient to attempt to modify the Bill in this respect as regards married young women, but the case of unmarried girls stands on a different footing. In my opinion intercourse with such girls between the ages of 12 and 14 should be made a criminal offence, irrespective of whether the girl consents to such intercourse or not. I do not think that the punishment of those guilty of such intercourse should be as severe as that provided by section 376 of the Indian Penal Code for rape, but they should certainly be liable to the penalty provided in section 354 of the Indian Penal Code for indecent assault, *i.e.*, 2 years' rigorous imprisonment, and for these reasons I think that a clause of this character, which would, to some extent follow the English Criminal Law Amendment Act of 1885, should be added to the Bill.

It is also, in my opinion, necessary to add to the provisions of sections 372 and 373 of the Indian Penal Code a clause penalising those who have intercourse with a girl knowing that she has been sold or otherwise disposed of for illicit intercourse or for any purpose specified in those sections. If such a clause is not added, the law remains incomplete and many of the persons who should be liable to punishment escape this liability and no considerations of policy in my view arise to justify the immunity of such persons.

3 In regard to the new provisions which will be inserted by the Bill in the Code of Criminal Procedure, I think in the first place that the scope of those provisions which may shortly be termed the rescue provisions, should be restricted to unmarried girls, as in my opinion, any attempt to extend these provisions to married girls will cause grave discontent and be open to serious objection. It must be remembered that the one object of the measure is to minimise, as far as law can do it, the risks of prostitution to which tender girls may be exposed. But when girls are married it is clear that they are not intended for a life of shame and the State may well leave them to the care of their relations. I have no objection to securing power of interference in the extreme and rare case of a husband going through the form of marriage with minor girls and making money of them.

4 I also think that the custodian appointed under this provision should only have such authority as may enable him to give effect to the intentions of the Bill, *viz.*, to educate the girl and to protect her from contamination. It is, in my opinion, very dangerous to give him the extensive powers provided by the Act, in particular, I would restrict the powers of such custodian in regard to marriage as the rights of the natural guardian in this respect should be retained, even if it has been found necessary to remove her from the custody of such guardian temporarily. The hardship and injustice would be the more obvious where such guardian has not been party to the misconduct of the girl leading to her 'contamination'.

5 As to details, I am of opinion that in some respects the Bill as amended goes too far and in other respects it restricts the power of a magistrate unnecessarily. In the first place I do not think that it is necessary to authorise a magistrate to make an order under new section 552B unless there is reason to believe that the prostitution of the girl will be encouraged by the influence or through the agency of a prostitute or brothel-keeper, and I consider that the language of clause (b) of section 552A is unnecessarily wide and dangerous. I further think that the proviso to clause (a) should not be limited to the case of a mother, but, in view of conditions in India, should be extended to other near relatives such as a grandmother or a sister, and further that the same proviso should also apply to minors who come within the scope of clause (b) of the same section.

6 On the other hand I incline to the view that the limitations providing that no minor shall be made over to the custody of any person not of her own religion is unnecessarily narrow as there may well be institutions of an unsectarian character to which the minor might safely be made over if sufficient safeguards were provided to secure that she were not converted to another faith.

7 I am unable to accept the view that magistrates in annexing the conditions to an order making over the minor to custody should be allowed to do so only with the consent of the proposed custodian. I think, therefore, that the words "with the consent of the person to whom the custody of the minor is committed" should be deleted in sub-section (3) of the proposed section 552B and that a similar modification should be made in clause (b) of section 552B (4).

8. I also consider that it is very necessary that the Local Governments should be given power to make rules regulating and defining the power of the custodian appointed under these provisions of the Bill.

It is to be observed that under the Children's Act, 1908, the Secretary of State has analogous powers, and it is necessary in the interests of those committed to custody under the new provisions that similar powers should be exercised by the Government of this country.

9 I believe that no case has been made out for restraining the jurisdiction of Civil Courts to the extent proposed by the Bill. It should be quite sufficient if suits to impeach or question the validity of proceedings of Criminal Courts under the Bill are prohibited. Cases can be easily imagined in which the guardian lawfully appointed under the new law may be found misconducting himself in respect of his ward in several ways, and it would not be in the interests of the girl, or in the public interest, to prevent her relations from seeking prompt relief in a Civil Court. The discretion vested in a magistrate to vary his original order is most inadequate for the purpose of meeting all such cases. Besides he has no power of issuing a temporary injunction pending investigation.

The new guardian might suddenly start for South Africa or the West Indies with the girls committed to his charge.

10 I think it most desirable that, where the relatives of the girl to be rescued demand it, the inquiry should be held before a jury. It must not be forgotten that the Bill aims in the main at the protection of minor girls against probable future contamination. The judgment must, from the very nature of the circumstances, be highly speculative, and the task of the magistrate would often be most embarrassing. A jury drawn from the people amidst whom the prostitutes live would be of great help in assisting the magistrate and saving him from possible odium.

We must remember that prostitution in certain forms continues to be recognised by large classes of people in this country and social intercourse between them and the rest of the society is common and without reproach. A magistrate, especially if he is not an Indian of experience, is apt to misunderstand and misinterpret the significance and effect of several circumstances arising from this social intercourse. Social intercourse with *Devā Dāsas* and *Basavies* of Southern India is a totally different thing from visiting the company of a prostitute in the dark pulchus of a Western City.

11 I think that the object of these rescue provisions would be better achieved and Indian society would be more readily co-operate with the authorities if Government starts free boarding schools and orphanages for girls in an increasing rate. Individual custodians of fallen and falling girls are not ordinarily desirable in the interests of girls or in their own, and private homes are few and not always very satisfactorily managed.

12 In conclusion, I desire to state that the time allowed for me to place on record my opinion in regard to the Bill as finally amended has been very short and for these reasons I have not been able to make this minute as complete or exhaustive as I should otherwise have desired. If, however, the recommendation of the Committee that the Bill be republished is accepted by Council it is hoped that a further opportunity of examining the Bill in detail will be furnished.

C VIJJIARAGHAVACHARIAR

*The 10th March 1914.*

#### MINUTE OF DISSENT BY THE HON'BLE MR. V. R. PANDIT

I support the principle of this Bill and appreciate the improvements effected in the Select Committee. At the same time I am of opinion that this occasion might have been availed of to make a greater response to a growing national feeling and raise ex-matrimonial age of consent for girls from 12 to at least 14 years. The provisions of the Bill are, in my opinion, capable of further improvement, and in particular I would invite attention to the desirability of including within the range of the agencies, through which the beneficent purpose of clause 6 of the Bill is sought to be achieved, homes other than those exclusively managed by persons professing the same religion as that of the rescued girl, provided adequate safeguards were introduced against interference with the religion of the girl.

V. R. PANDIT.

MINUTE OF DISSENT BY THE HON'BLE PANDIT MADAN MOHAN  
MALAVIYA.

THE amendments which have been made in the Select Committee have removed some defects which existed in the Bill as it was introduced into the Council. The Bill has further been improved by the introduction of certain safeguards which are always needed in a measure of this character. To this extent the Bill as amended has my support. But some departures from the original provisions of the Bill have, in my opinion, undesirably enlarged the scope of the Bill and there are some further safeguards necessary to ensure that the Bill shall only serve the humane purpose which it is intended to serve, and not lead to unnecessary hardship. I will indicate these below.

But before I come to these, I would urge that the age of consent should be raised as against every one except the husband from 12 to 14 years, or at least to 13 years. Under the English law defilement of a girl under 13 years of age is punishable as felony (see section 4, Criminal Law Amendment Act, 1885), and defilement of a girl who is above the age of 13 years and under the age of 16 years is punishable as a misdemeanour (see section 5 of the same Act). It seems to me extremely desirable that a similar protection should be given to girls at least up to the age of 13 years, particularly in view of the amendments of the law which the present Bill proposes to introduce.

I would also add a section after 373 to punish carnal intercourse with a girl who has been obtained in any of the ways specified in section 372 by a man who knows that she has been so obtained. In the absence of such a section, the agents will be punished, but the principal will go scot-free.

Clause (b) of section 552A stood in the original Bill as follows —

“(b) Is lodging or residing in a house, or other place used as a human dwelling, or the part of a house or such place, used by any prostitute for purposes of prostitution, or is otherwise living in circumstances calculated to cause, encourage or favour the seduction or prostitution of the child.”

This practically followed the wording of section 50 (1) (g) of the Children Act, 1908. In the form of the clause as amended by the Select Committee, the first portion is entirely omitted, for reasons given in paragraph 6 of the Report. I consider the omission regrettable. The sentence omitted was, in my opinion, used in the English Act, and in the original Bill, to bring prominently before the mind of the Magistrate the kind of danger from which girls under 16 are to be protected. It is true that the second sentence of the clause as it stands in the English Act, if taken apart from its context, is capable of being interpreted as referring to circumstances entirely unconnected with any prostitute. But I submit that *ejusdem generis* the second portion read with the first would indicate that it was meant to refer to circumstances similar to those mentioned in the first. As the clause now stands in the amended Bill, the scope of the Magistrate's enquiry has been greatly widened. And I consider this objectionable in view of the fact that there are no certified Industrial schools, or homes such as exist in England, for the reception of girls who may be brought under the operation of the wider provision proposed by the Select Committee. I would substitute the following clause for clause (b) of the Bill —

“(b) Is lodging or residing in a house, or the part of a house, used by any prostitute for the purposes of prostitution, or living in circumstances calculated to cause, encourage or favour her prostitution by the influence or agency of any prostitute, or the keeper or manager of a brothel.”

The law can be amended after a few years' experience of the working of the Act in this limited form, and when, with the co-operation of the Government and the people, homes have been provided for the reception of girls who may come within the scope of the broader provision of the Bill as proposed by the Committee.

I am also strongly of opinion that the provisions of the Bill should not apply to females under 16 who have been married. The marriage of a girl alters her status, and as a rule affords her a protection against temptation and exposure to evil which her unmarried sister does not enjoy. She should therefore not be liable to be dealt with under this Act. It may be that this may result in protection being refused in some cases in which it may be needed. But the inclusion of married females is likely to lead to much greater hardship and will give rise to much dissatisfaction. For these reasons I would add a second proviso to section 552A (1) as below —

“Provided also that no female under 16 years who has been married shall be treated as coming within the scope of this section, except where the court is satisfied on inquiry that the marriage is a mere pretext for avoiding the provisions of this Act.”

I would alter clauses 2 and 3 of section 552B as follows —

“(2) where the religion of the female is known or can after reasonable enquiry be ascertained, a suitable person who is of the same religion as such female is willing to undertake her custody, and (3) where the religion of the female is not known or cannot after reasonable enquiry be ascertained, a suitable person is willing to undertake her custody and to give such an undertaking as to the court seems sufficient that she shall not be converted to any particular faith so long as she remains in his charge”

I would add a 4th clause as follows —

“any other suitable person”

And after clause 2 of section 552B I would add —

“In any case where the female has been placed pursuant to an order under this section with a person who has not given such an undertaking as aforesaid, the court which made the order, or any court of like jurisdiction, shall on the application of any person in that behalf, and on its appearing that a fit person who will give such an undertaking as aforesaid is willing to undertake the care of the female, make an order to secure her being placed with a person who gives such an undertaking as aforesaid”

The amendments recommended by the Select Committee fully secure that where the religion of a child is known or can after reasonable enquiry be ascertained, she shall be made over to the custody of a person of the same religion. This is quite satisfactory so far. But in the case of female minors whose religion is not known or cannot be ascertained at the time of making an order, the Bill permits the Magistrate to commit the minor to the custody of any suitable person, irrespective of his religion. The object of the further amendment which I suggest is that, in such cases, the child shall, preferably, be entrusted to the care of a person or association who would give an undertaking that the child shall not be converted to any particular faith until she is in his or their charge. I would provide that, in the absence of a person willing to give such an undertaking, a child may be made over to the custody of any suitable person without such an undertaking, but in that case again I would provide on the analogy of section 23 (b) of the Children Act, 1908, that when a suitable person comes forward to give such an undertaking the Magistrate shall order the custody of the child to be transferred to such a person.

The object of my amendments is that every reasonable safeguard should be provided against the provisions of this Act leading indirectly to the conversion of a female minor who is brought under the humane provisions of this Act. In support of this view, I would invite attention to the following passage in the opinion of the Hon'ble Mr. T. Richmond, Barrister-at-Law, of Madras. The remarks were written when the Bill stood in its original form. But they still illustrate my point so far as the care of children whose religion is not known, or cannot be ascertained, at the time of making the order, are concerned. Says the Hon'ble gentleman —

“4. Under section 8, clause 3 (b), the Magistrate can make over the child to the Salvation Army or any such missionary body in the absence of a person or association of the child's religion willing to take over the minor. I know of no such associations in this Presidency except the local Society for the Protection of children working in a small way. The result will be that bodies like the Salvation Army and others who are earnest workers in the purity cause will constantly set the law in motion and get the minors into their hands and possibly also succeed in converting them to the Christian faith. I admit the result would be so far good, but I am not, however, equally sure of its expediency, as in the eyes of the ordinary uneducated man and woman, who after all form the bulk of the population, the measure, when successfully worked by the missionary agencies, may appear to them, especially in the mufassal where there are not likely to be competing agencies, as more or less a Government measure for proselytizing these minors to the Christian faith. I will only say that the matter requires consideration from this standpoint”

After section 552B (2) I would put in the following clauses —

1 “If the female has a parent or legal guardian, no order shall be made under this section, unless it has been proved to the satisfaction of the court making the order that the female has been exposed to the risk of prostitution, or living a life of prostitution, with the knowledge of her parent or guardian, or that the parent or guardian cannot be found”

[Cf. section 21 (2) of the Children Act, 1908]

2 “The Local Government may at any time in its discretion discharge a female from the care of any person to whose care she is committed in pursuance of this section, either absolutely or on such conditions as the Local Government approves”

[Cf. section 21 (5) of the Children Act, 1908.]

3 “No person to whose care a female is committed under this section shall remove her out of the jurisdiction of the court which made the order about her custody or procure her emigration, except with the authority of the Local Government.”

[Cf. section 21 (8) of the Children Act, 1908.]

From clause 3 of section 552B I would omit the words "with the consent of the person to whose custody the female is committed" I would also omit the same words from (4b) of the same section

In section 552D (1) after the words "be deemed to be the lawful guardian of such female," I would add the following "for the purposes of this Act," and after clause 1 of the same section I would add —

"No guardian appointed under this Act shall have the right as such to dispose of his ward in marriage without an express authority from the court which committed her to his custody, or from a court of like jurisdiction,

"(2) The natural guardian of the female respecting whom an order has been passed under section 552B may give away such female in marriage with the permission of the court which passed such an order. The Magistrate shall give such permission except where he has reason to believe that the proposed marriage is not a *bona fide* arrangement"

In clause 3, section 552D, I would make it clear that the power of the High Court for revision is not taken away by the section. I would restore section 552B of the Bill as it stood in the original Bill which empowers the court to pass an order for a contribution by the parents or the legal guardians of a female transferred from their custody for the maintenance of the child, with this further provision, that "the Local Government may in its discretion remit wholly or partially any payment ordered under this section" [Cf., section 75 (8) of the Children Act, 1908.]

A contribution by a parent or a guardian for the maintenance of the child will keep up the natural tie between the parent or guardian and the child, and will bring it home to the parent or guardian that the removal of the child from their custody is meant only for the welfare of the child and not to break up the natural tie between them and child. The section gives a discretion to the Magistrate to pass an order for contribution where he is satisfied that the parent or guardian is in a position to make such contribution, and the further proviso which I suggest will provide for relief in any case in which the order is likely to work hardship. This section if restored would come in as 552E

I would add a further section as 552F, as follows —

"The Local Government may make rules for the guidance of Magistrates in regard to instructions and conditions to be annexed to any order under this Act, and for safeguarding the welfare of females in respect of whom orders under this Act are made, in particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for facilitating the marriage of a female in accordance with the custom of her tribe or caste, and also to provide that any institution where a female is placed under the provision of this Act, should be visited and inspected from time to time by persons appointed by him for the purpose" (Cf., section 25 of the Children Act, 1908)

I would also add a section like section 38 of the Children Act, 1908, as follows:—

"In this Act unless the context otherwise requires the expression 'suitable person' in relation to the custody of a female minor includes any society or body corporate established for the reception or protection of such minors"

I regret that owing to want of time I have not been able to give at full length the reasons for the suggestions I have noted above. But I wish generally to say that in view of the fact that a measure of this kind is being introduced for the first time in this country, the Act should in my opinion contain provisions similar to those of the Children Act of 1908, of England, to which I have referred. It should be remembered that there are numerous certified industrial schools, reformatory schools, and a large number of homes in England for the reception of children rescued from unsatisfactory surroundings. We have very few of such institutions at present in India. Yet the English Act contains many safeguards which are wanting in the Bill in question. I feel that in the present circumstances of this country there is much greater need for such safeguards here than in England. And I therefore recommend that these should be provided before the Bill is put into its final shape and passed.

MADAN MOHAN MALAVIYA

11th March 1914.

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MINUTE OF DISSENT BY THE HON'BLE MR. MADHU SUDAN DAS.

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IN my opinion the modification of the Bill which has been made by the insertion of clause (iii) of the section 552 B, which it is proposed to add to the Code of Criminal Procedure, 1898, is open to objection. It will create difficulties and will seriously impair the utility of the new provision of the law.

M. S. DAS.

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MINUTE OF DISSENT BY THE HON'BLE BABU SURENDRA NATH BANERJEE.

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I SIGN the Report of the Select Committee subject to the following note of dissent :—

1. I think that intercourse with an unmarried girl between the age of 12 and 14 should be made a criminal offence, whether the girl is a consenting party to such intercourse or not, and that the Bill should include a clause to this effect, the punishment being that prescribed in England for such an offence under the Criminal Law Amendment Act, 1885. I also think that the penal provisions of section 373 should be extended to any person who has intercourse with a girl under sixteen years of age knowing that she has been bought or hired with any of the intentions specified in that section.

2. I am of opinion that the rescue provisions of the Bill should not apply to married girls except where the marriage is a mere pretext, and that the powers of the guardian should be restricted to matters falling within the scope of the Bill.

3. Under the Bill (section 552 B) a rescued minor girl can only be made over to the custody of a suitable person of the same religion. No provision is made in the Bill for the custody of rescued girls when such persons are not forthcoming. Cases may occur when persons of the same religion may not be found who would take charge of the rescued girls. They should not be sent back to the brothels or to their former custodians but should be made over by the Magistrate to persons or institutions professing a different religion, subject to the condition that such minor girls shall not be permitted to change their religion until they have attained their majority.

SURENDRA NATH BANERJEE.

[ AS AMENDED BY THE SELECT COMMITTEE ]

[ Words printed in italics indicate the amendments suggested by the Select Committee ]

A Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for the purpose of affording greater protection to persons under the age of sixteen years, It is hereby enacted as follows —

1. This Act may be called the Indian Criminal Short title Law Amendment Act, 1914

2. In sections 372 and 373 of the Indian Penal Code, for the words "minor" under the age of sixteen years with intent that such minor shall be employed or used for the purpose of prostitution, or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be" the words "person under the age of sixteen years with intent that such person shall, at any age be employed or used for the purpose of prostitution, or illicit intercourse with any person, or for any unlawful and immoral purpose, or knowing it to be likely that such person, at any age will be" shall be substituted.

3. In section 372 of the same Code, the following Explanations shall be added, namely —

"Explanation I—When a female under the age of sixteen years is sold, let for hire, or otherwise disposed of to a prostitute, or to any person who keeps or manages a brothel, the person so disposing of such female shall until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

"Explanation II—For the purpose of this section and section 373 illicit intercourse means sexual intercourse between persons not united in marriage or bound by any union or tie which, though not amounting to a marriage, is recognised as lawful by their personal law"

4. To section 373 of the same Code, the following Explanation shall be added, namely —

"Explanation—Any prostitute, or any person keeping or managing a brothel, who buys, hires, or otherwise obtains possession of a female under the age of sixteen years shall, until the contrary is proved, be presumed to have obtained possession of such female

with the intent that she shall be used for the purpose of prostitution"

In section 552 of the Code of Criminal Procedure, 1898, for the word "fourteen" the word "sixteen" shall be substituted

6 After section 552 of the Code of Criminal Procedure, 1898, the following sections shall be inserted, namely —

"552A (1) Whenever a Presidency Magistrate, District Magistrate, or Magistrate of the first class specially empowered in this behalf by the Local Government receives information from any person other than a police officer that a female under the age of sixteen years, within the limits of his jurisdiction,—

(a) frequents the company of any prostitute, or

(b) is living in circumstances calculated to cause, encourage or favour the prostitution of such female,

such Magistrate shall examine the informant on oath and record the substance of such examination, and shall, if he thinks that there are sufficient grounds for enquiring further fix a date for such enquiry and issue a notice to the person, if any, having the lawful charge of such female and to the person, if any, with whom the female is living, and to any other person to whom in the opinion of the Magistrate, notice of the proceedings should be given, calling upon such persons to appear before him on a date mentioned in such notice to show cause why an order committing such female to suitable custody should not be made

Provided that a female shall not be treated as coming within the scope of clause (a), if the only prostitute whose company she frequents is her mother, and the Magistrate is satisfied that the mother exercises due care and supervision to protect her from physical and moral contamination

(2) On such date or on any subsequent date to which the proceedings may be adjourned, the Magistrate shall hear and record all evidence which may be adduced and consider any cause which may be shown why such order should not be made and may make any further inquiry he thinks fit

(3) Evidence recorded under sub-section (2) shall be recorded in the manner prescribed in the case of summons cases

"Section 552B (1) If, after enquiry under section 552A, the Magistrate is satisfied of the truth of the information and that —

(i) no order of a Civil Court or of a Court of Wards appointing or declaring a guardian of the person of such female is in force, and

(ii) a suitable person is willing to undertake the custody of such female, and

(iii) where the religion of the female is known, or can after reasonable enquiry be ascertained, the person willing to undertake the custody is of the same religion as such female



the Magistrate may, after recording his reasons, make an order committing such female to such suitable custody until she attains the age of sixteen years, or for such shorter period, as the Magistrate thinks fit.

(2) In determining the person to whom the custody of a female shall be committed under this section, the Magistrate shall give preference to a relative, if otherwise suitable, and shall be guided by what, in the circumstances, appears to be for the welfare of the female, having regard to her age, and the character, sex and capacity of the person to whose custody he proposes to commit her, and if the female is old enough to form an intelligent preference, the Magistrate may consider such preference.

(3) In making an order under this section, the Magistrate may, with the consent of the person to whose custody the female is committed, annex such conditions to the order as the Magistrate thinks fit.

(4) The Magistrate, or where the female is within the limits of the jurisdiction of any other Magistrate competent to make an order under this section, such Magistrate may from time to time

(a) compel compliance with such order, using such force as may be necessary, and may cancel or vary such order, and

(b) with the consent of the person to whose custody the minor is committed, vary any of the conditions annexed to such order.

(5) If the person, to whose custody the female is committed, makes default in complying with any of the conditions annexed to an order under this section, he shall be punishable as if he had committed an offence under the second part of section 188 of the Indian Penal Code.

(6) An appeal shall lie to the Sessions Judge against any order under this section.

"552C If during or after an enquiry under section 552A the parent or person having the lawful charge of the female, offers to execute a bond (with or without sureties) to the satisfaction of the Magistrate, engaging that he will exercise due care and supervision to protect such female from physical and moral contamination, until she attains the age of sixteen years or for such shorter period as the Magistrate thinks fit, the Magistrate may accept such bond, and stay further proceedings.

"552D. (1) Any person to whose custody a female has been committed by an order under section 552B shall, whilst the order is in force, be deemed to be the lawful guardian of the person of such female; and the female shall continue in the custody of such person, notwithstanding that she is claimed by her parent or any other person.

"(2) Nothing in this section or in section 552B shall affect any power exercisable, under the law for the time being in force, by any Civil Court or by a Court of Wards in respect of the appointment or declaration of a guardian of the person of a minor and if an order under section 552B

or section 552C is made in respect of any female and a guardian of the person of such female is subsequently appointed or declared by any Civil Court or by a Court of Wards the female shall be made over to the guardian so appointed or declared and any order of the Magistrate under either of the said sections shall be discharged.

"(3) Save as herein expressly provided, no Court shall entertain any suit or other legal proceeding to enforce any right or power which would interfere with the control of the custodian over the female, which is provided for by sub-section (1) "

Amendment of Schedules III, IV and V of the Code of Criminal Procedure, 1898  
7(1) In Part V of Schedule III of the Code of Criminal Procedure, 1898, after item (20), the following item shall be added, namely —

"21 Power to commit to suitable custody a female under sixteen years of age or to accept security from the person having lawful charge of such female—502 B and 552 C

(2) In Schedule IV of the same Code after item 13 the following item shall be inserted, namely —

"13 A Power to commit to suitable custody a female under sixteen years of age or to accept security from the person having the lawful charge of such female—552B and 552 C

(3) In Schedule V of the same Code after the form number LIII, the following forms shall be added, namely —

"LIV—Bond to exercise due care to protect a female under sixteen years of age from physical and moral contamination

I hereby bind myself to exercise due care and supervision to protect the said A B from physical and moral contamination until she attains the age of — years and the Magistrate is willing to accept such a bond

I hereby bind myself to exercise due care and supervision to protect the said A B from such contamination until she attains the age of — years, and in case of my making default therein, I bind myself to forfeit to His Majesty the King, Emperor of India, the sum of rupees .

(Signature)

Dated this

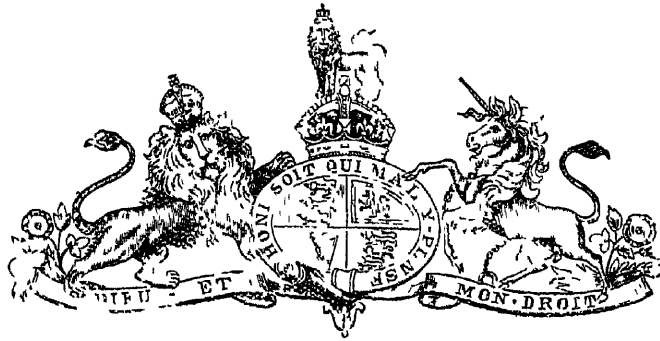
(If here a bond with sureties is to be executed, add) We do declare ourselves sureties for the abovenamed that he will take due care and supervision to protect the said A B from physical and moral contamination as stipulated in the bond executed by him and in case of his making default therein, we bind ourselves jointly and severally to forfeit to His Majesty the King, Emperor of India, the sum of rupees

(Signature.)

W, H VINCENT,

Secretary to the Government of India.





# The Gazette of India.

PUBLISHED BY AUTHORITY.

DELHI, SATURDAY, MARCH 28, 1914.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st March, 1914.—

No 3 OF 1914

*A Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870*

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870, It is hereby enacted as follows —

V of 1893  
VII of 1870

1 This Act may be called the Code of Criminal Procedure (Amendment) Act, 1914

Short title

2. In section 10 of the Code of Criminal Procedure, 1898 (hereinafter called the said Code),—

X of 1898

(a) In sub-section (2), the words "for a period not exceeding six months" shall be omitted, and after the words "under this Code" the words "or under any other law for the time being in force" shall be inserted

(b) After sub-section (2) the following sub-section shall be added, namely —

XI of 1905 (7)

"(3) For the purposes of sections 192, 407 and 528, such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate"

3. After sub-section (2) of section 18 of the said Code, the following sub-sections shall be added, namely —

"(3) A Presidency Magistrate may be appointed under this section for such term as the Local Government may, by general or special order, direct

"(4) The Local Government may appoint any person to be an Additional Chief Presidency Magistrate, and such Additional Chief Presidency Magistrate shall have all or any of the powers of a Chief Presidency Magistrate under this Code or any other law for the time being in force as the Local Government may direct"

4. In sub-section (2) of section 21 of the said Code, after the words "Presidency Magistrates," the words "including Additional Chief Presidency Magistrates" shall be inserted.

5. (1) In section 35 of the said Code—

(a) In sub-section (1), for the words "When a person is convicted at one trial of two or more

distinct offences, the Court may," the following shall be substituted, namely —

"When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the Indian Penal Code,"

of 186.

(ii) In sub-section (3) for the word "aggregate" the words "the aggregate of consecutive" shall be substituted

(2) The *Explanation* and *Illustration* to this section are hereby repealed

6. In section 40 of the said Code, after the words "throughout any local area" is transferred," the words "or appointed at any subsequent time" shall be inserted, and after the words "so transferred" the words "or in which he is so appointed" shall be added

Amendment of section 44, Code of Criminal Procedure, 1898

(2) After the word "punishable" the words "under any of the sections contained in Chapter XII (except sections 239, 240, 241, 250, 251 and 254) or" shall be inserted, and

(ii) For the word and figures "and 460" the figures, letters and word "460, 489A, 489B, 489C and 489D" shall be substituted

Amendment of section 45, Code of Criminal Procedure, 1898

(1) In sub-section (1) —

(2) For the word "obtain" the words "possess or obtain" shall be substituted

(ii) In clause (c) for the word and figures "or 148" the figures, word and letter "148, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 420 or 489C" shall be substituted

(iii) To clause (d), after the words "suspicious circumstances," the following words shall be added, namely —

"or the discovery of any corpse in or near such village in circumstances which lead to a reasonable suspicion that such a death has occurred"

(iv) In clause (e), after the word "punishable", the words and figures "under any of the sections contained in Chapter XII (except sections 239, 240, 241, 250, 251 and 254) or" shall be inserted, and for the word and figures "and 460" the figures, letters and word "460, 489A, 489B, 489C and 489D" shall be substituted

(2) In sub-section (3), after the words "District Magistrate", the words "or Sub-Divisional Magistrate" shall be inserted

9. For sub-section (1) of section 59 of the said Code, the following sub-section shall be substituted, namely —

"(1) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence or against whom a reasonable suspicion exists that he has committed such an offence, or any proclaimed offender,

and shall without unnecessary delay make over any person so arrested to a police-officer, or, in the absence of a police-officer, shall take or cause such person to be taken in custody to the nearest police-station"

10. For sub-section (2) of section 68, the following Amendment of section 68, Code of Criminal Procedure, 1898

"(2) Such summons shall be served by a police-officer or by such other person as the Local Government may prescribe by rules in this behalf or, if the Local Government so directs, by registered post, in which case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post"

11. After sub-section (6) of section 88 of the said Code, the following sub-sections shall be inserted, namely —

"(6A) If any claim is preferred or objection made to the attachment of any property under this section within six months of the date of such attachment by any person other than the proclaimed person, on the ground that such property is not the property of the proclaimed person, or that the claimant or objector has an interest in it, the Court shall investigate the claim and shall make such order as it thinks fit

"Provided that no such investigation shall be made if in the opinion of the Court the claim or objection has been designedly or unnecessarily delayed

"(6B) The person against whom an order is made after an investigation under sub-section (6A) may institute a suit to establish the right which he claims to the property in dispute, but, subject to the result of such suit, if any, the order shall be conclusive"

12. After sub-section (4) of section 103 of the said Code, the following sub-sections shall be added, namely —

"(5) Any person who without reasonable cause refuses or neglects to attend and witness a search under this section when called upon to do so shall be punishable under section 187 of the Indian Penal Code

"(6) The fact that any person so attending neglects or refuses to sign the list of the articles seized shall not affect the legality of the search"

Amendment of section 108, Code of Criminal Procedure, 1898

(1) In sub-section (1), after the word "involving", the words "or likely to cause" shall be inserted

(ii) In sub-section (3), after the words "Appellate Court", the words "including a Court hearing appeals under section 407" shall be inserted.

**14.** In section 108 of the said Code, after Amendment of section 108, Code of Criminal Procedure, 1898 the words "in writing", the words "or in any other manner" shall be inserted, and after the figures "1867", the words "with reference to any matter contained in such publication" shall be inserted

**15.** In section 110 of the said Code, in Amendment of section 110, Code of Criminal Procedure 1898 clause (d) after the word "mischief", the words "kidnapping, abduction" shall be inserted, and after the word "counterfeiting" the words "or uttering counterfeit" shall be inserted

**16.** (1) To section 117 of the said Code, the Amendment of section 117, Code of Criminal Procedure 1898 following sub-section shall be added, namely —

"(5) Pending the completion of the inquiry under sub-section (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity, or for the public safety, may direct the person in respect of whom the order under section 113 has been made to execute a bond with, or without sureties, of the nature and for an amount not exceeding the amount specified in the said order for such period as may elapse before the completion of the inquiry, and in default of furnishing such security such person may, by order of the Magistrate, be detained in custody pending the completion of such inquiry."

(2) In sub-section (3) of the said section after the words "habitual offender" the words "or is so desperate and dangerous as to render his being at large without security hazardous to the community" shall be inserted

**17.** For section 122 of the said Code, the following section shall be substituted, namely —

**"122.** (1) A Magistrate may, for reasons to be recorded in writing, refuse to accept any surety offered under this Chapter on the ground that such surety is, in the opinion of such Magistrate, not possessed of property from which the amount specified in the bond can be recovered, or is, by reason of his character or for any other sufficient cause, an unfit person

(2) Before making an order refusing to accept a surety under sub-section (1), the Magistrate shall either himself inquire into the fitness of the surety, or direct such inquiry to be made by any Magistrate subordinate to him, and the report of such subordinate Magistrate shall be admitted as evidence of the facts stated therein"

**18.** After sub-section (3) of section 123 of the said Code the following sub-section shall be inserted, namely —

"(3A) A Sessions Judge may transfer any proceedings laid before him under this section to an Additional Sessions Judge, and upon such transfer such Additional Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings."

**19.** In sub-section (1) of section 133 of the said Code:—

(1) The words "when empowered by the Local Government in this behalf" shall be omitted

(2) After the words "river or channel which" the words "in his opinion" shall be inserted

(3) For the words "that any trade or occupation, or the keeping of any goods or merchandize, by reason of its being injurious to the health or physical comfort of the community" the following words shall be substituted, namely, "that the conduct of any trade or occupation, or the keeping of any goods or merchandize, is injurious to the health and physical comfort of the community and that in consequence it"

(4) After the words "danger arising to the public" the words "or, that any dangerous animal should be destroyed or otherwise disposed of" shall be inserted

(5) After the words "controlling such building, substance, tank, well or excavation" the words "or owning or possessing such animal" shall be inserted

(6) After the words "to fence such tank, well or excavation as the case may be, or" the words "to destroy or dispose of such dangerous animal in the manner provided in the said order, or" shall be inserted

**20.** To sub-section (1) of section 139 of the said Code, the following *Explanation* shall be added, namely —

*Explanation*—When the conditional order is for the removal of any obstruction or nuisance from any way, river, channel or public place, the jury shall, in deciding whether such order is reasonable and proper, consider any objection made by the person to whom such order was addressed that the way, river or channel is not one that is or may be lawfully used by the public or that the place is not a public place"

**21.** In section 145 of the said Code—

(1) In sub-section (1) for the word "shall" the word "may" shall be substituted

(2) To sub-section (6) the following shall be added after the words "such eviction," namely — "and when he proceeds under the first proviso to sub-section (4) may restore to possession the party forcibly and wrongfully dispossessed"

(3) To sub-section (7), the following shall be added after the words "parties thereto", namely —

"When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding, and shall thereupon proceed with the inquiry, and when any question arises as to who the legal representative of a deceased party for the purpose of such proceeding is, such question shall be determined by the Magistrate"

(4) After sub-section (7) the following sub-section shall be added, namely —

"(8) If the Magistrate is of opinion that any property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, or that such an order will be for the benefit of the parties, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property or the sale-proceeds thereof as he thinks fit"

**22.** For section 147 of the said Code, the following section shall be substituted, namely —  
Amendment of section 147, Code of Criminal Procedure, 1898

"**147.** (1) Whenever any District Magistrate, Presidency Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied from a police report or otherwise that a dispute likely to cause a breach of the peace exists regarding any alleged right of use of any immovable property (whether such right be an easement or not), within the local limits of his jurisdiction, he may inquire into the matter in the manner provided in section 145

(2) If it appears to such Magistrate that such right exists, he may make an order prohibiting any interference with the exercise of such right

Provided that no such order shall be made where the right is exerciseable at all times of the year unless such right has been exercised within three months next before the institution of the inquiry, or where the right is exerciseable only at particular seasons or on particular occasions unless the right has been exercised during the last of such seasons or occasions before such institution

(3) If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right

(4) Any order under this section shall remain in force until set aside by a Civil Court of competent jurisdiction"

**23.** In sub-section (1) of section 148 of the said Code, after the words "District Magistrate," the words "Chief Presidency Magistrate" shall be inserted  
Amendment of section 148, Code of Criminal Procedure, 1898

**24.** To sub-section (1) of section 155 of the said Code, the following shall be added after the words "to the Magistrate," namely —  
Amendment of section 155, Code of Criminal Procedure, 1898

"and may if he thinks fit send a report of such information to a Magistrate empowered to take cognizance of offences under section 190 (b), and such Magistrate may thereupon take cognizance of such offence

Such report shall, if the Local Government so directs, be submitted through such superior officer as the Local Government by general or special order appoints in this behalf"

**25.** In section 157 of the said Code —  
Amendment of section 157, Code of Criminal Procedure, 1898

(c) In sub-section (1) for the words "and to take such measures as may be necessary," the words "and if necessary to take measures" shall be substituted

(12) In sub-section (2) after the words "that sub-section," the words "and in the case mentioned in clause (b) such officer shall also forthwith notify the informant that he will not investigate the case or cause it to be investigated" shall be added

**26.** In sub-section (1) of section 161 of the said Code, after the word "Chapter," the words "or any police-officer not below the rank of a sub-inspector acting on the requisition of an officer making any such investigation" shall be inserted  
Amendment of section 161, Code of Criminal Procedure, 1898

**27.** After sub-section (1) of section 162 of the said Code, the following sub-section shall be inserted, namely —  
Amendment of section 162, Code of Criminal Procedure, 1898

"(1A) When such statement or any part thereof is used to impeach the credit of a witness under sub-section (1), such statement may also be used to corroborate the evidence of such witness"

**28.** In section 165 of the said Code —  
Amendment of section 165, Code of Criminal Procedure, 1898 (2) For sub-sections (1) and (2), the following sub-sections shall be substituted, namely —

"165 (1) Whenever an officer in charge of a police-station or a police-officer making an investigation has received information or has reasonable grounds for believing that anything necessary for the conduct of an investigation into any offence which he is authorized to investigate may be found within the limits of the police-station of which he is in charge or to which he is attached, and such thing cannot in his opinion be otherwise obtained without undue delay, such officer may search, or cause search to be made, for the same, in any place within the limits of such station

(2) A police-officer proceeding under sub-section (1) shall, if practicable, conduct the search in person"

(12) In sub-section (4) after the words "search warrants," the words "and the general provisions as to searches contained in section 102 and section 103" shall be inserted

**29.** After sub-section (2) of section 166 of the said Code, the following sub-sections shall be added, namely —  
Amendment of section 166, Code of Criminal Procedure, 1898

"(3) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police-station to cause a search to be made under sub-section (1) might result in evidence of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police-station to search or cause to be searched any place in the limits of another police-station in accordance with the provisions of section 165 as if such place were within the limits of his own station

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police-station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 103."

**30.** In sub-section (1) of section 167 of the said Code for the words "(if any)" the words "if in custody" shall be substituted  
Amendment of section 167, Code of Criminal Procedure, 1898

D. D. 1441

**31.** In section 169 of the said Code, after the word "appears" the words "to the police-officer making the investigation or" shall be inserted

Amendment of section 169, Code of Criminal Procedure, 1898

**32.** For sub-section (1) of section 173 of the said Code, the following sub-section shall be substituted, namely —

Amendment of section 173, Code of Criminal Procedure, 1898

**173 (1)** Every investigation under this Chapter shall be completed without unnecessary delay, and as soon as it is completed, the officer in charge of the police-station shall,

Report of police officer

(a) forward to a Magistrate empowered to take cognizance of the offence on a police report a report in the form prescribed by the Local Government setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody or has been released on his bond and, if so, whether with or without sureties, and

(b) communicate, in such manner as may be prescribed by the Local Government, the result of his investigation to the person by whom the information relating to the commission of the offence was first given"

**33.** In sub-section (5) of section 174 of the said Code, for the words "or Sub-divisional Magistrate," the words "Sub-divisional Magistrate or Magistrate of the first class," shall be substituted

Amendment of section 174, Code of Criminal Procedure, 1898

**34.** For sub-section (3) of section 181 of the said Code, the following sub-section shall be substituted, namely —

Amendment of section 181, Code of Criminal Procedure, 1898

**(3)** The offence of theft or any offence which includes theft may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen"

Theft

**35.** Section 192, sub-section (1), of the said Code shall be renumbered section 192, and sub-section (2) of the same section is hereby repealed

Repeal of section 192 (2), Code of Criminal Procedure, 1898

**36.** In Section 195 of the said Code—

Amendment of section 195, Code of Criminal Procedure, 1898

(\*) For sub-section (4) the following sub-section shall be substituted, namely —

**(4)** The sanction referred to in sub-section (1) shall not be granted unless the authority granting such sanction is satisfied that there are reasonable grounds for believing that the offence in respect of which such sanction is sought has been committed. Such sanction may be expressed in general terms, and need not name the

Nature of sanction necessary

accused person, but it shall, so far as practicable, specify the offence committed and the Court or other place in which, and the occasion on which such offence was committed"

(ii) In sub-section (5) after the word "given" the words "or complaint is made" shall be inserted

(iii) For sub-section (6) the following sub-section shall be substituted, namely —

**(6)** An appeal shall lie from any order granting or refusing a sanction under this section to the authority to which the authority granting or refusing such sanction is subordinate, and the decision of such appellate authority shall be final. No sanction shall remain in force for more than two months from the date on which it is given, provided that the High Court may for sufficient reason extend that period"

(iv) After sub-section (7) the following sub-sections shall be added, namely —

**(8)** The revocation by a superior authority of a sanction given under this section by reason only of any defect or irregularity in the form of the sanction or in the proceedings prior to the grant of such sanction shall not be a bar to the institution of fresh proceedings to obtain such sanction in respect of the same offence

**(9)** Sanction may be given on a complaint made by a Court in accordance with the provisions of this section notwithstanding the fact that an appeal has been preferred against the sentence, judgment or order of the Court in which such offence was committed

**(10)** No sanction shall be given and no complaint made under this section by any Court in respect of any offence under section 211 of the Indian Penal Code, until—

XIV of 1860

(a) the criminal proceeding in respect of which such offence is alleged to have been committed has been finally disposed of by such Court, and

(b) the person whom it is sought to prosecute has had an opportunity of showing cause why such sanction should not be given on such complaint made"

**37.** In section 196 of the said Code —

Amendment of section 196, Code of Criminal Procedure, 1898

(1) For the words "take cognizance" the words "proceed to the trial" shall be substituted

(2) For the words "upon complaint made" the words "the prosecution has been sanctioned" shall be substituted

**38.** In section 197 of the said Code, for the words "as such Judge or public servant of any offence," the words "of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duties" shall be substituted.

**39.** To section 198 of the said Code, the following proviso shall be added, namely —

Amendment of section 198, Code of Criminal Procedure, 1898

"Provided that where the person so aggrieved is a minor or a lunatic, such complaint may also be made by any guardian or other person lawfully entrusted with the care and custody of the person or property of such minor or lunatic"

**40.** To section 199 of the said Code the following proviso shall be added, namely:—

Amendment of section 199, Code of Criminal Procedure, 1898

"Provided that where the husband of the woman is a minor or a lunatic such complaint may be made by any guardian or other person lawfully entrusted with the care and custody of the person or property of such minor or lunatic."

**41.** After proviso (a) of section 200 of the said Code, the following proviso shall be inserted, namely —  
Amendment of section 200, Code of Criminal Procedure, 1898

"(aa) When the complaint is made in writing by a public servant acting or purporting to act in the execution of his official duties, a Magistrate may, if he thinks fit, proceed with the inquiry into or trial of the case without examining the complainant on oath."

**42.** In section 202 of the said Code—

(e) For sub-sections (1) and (2), the following sub-sections shall be substituted, namely —  
Amendment of section 202, Code of Criminal Procedure, 1898

"**202.** (1) Any Magistrate on receipt of a complaint of an offence of which he is authorised to take cognizance may, if he thinks fit for reasons to be recorded in writing after examining the complainant where such examination is prescribed by this Code, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or, if he is a Magistrate other than a Magistrate of the third class, direct an inquiry or investigation to be made by any Magistrate subordinate to him or by a police-officer or by such other person as he thinks fit for the purpose of ascertaining the truth or falsehood of the complaint

(2) If an inquiry or investigation under this section is made by a person not being a Magistrate or a police-officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police-station except that he shall not have power to arrest without warrant."

(3) After sub-section (3) the following sub-section shall be added, namely —

"(4) Any Magistrate inquiring into a case under this section may, if he thinks fit, take evidence of witnesses on oath."

**43.** In section 203 of the said Code, for the word "investigation", the words "inquiry or investigation" shall be substituted.  
Amendment of section 203, Code of Criminal Procedure, 1898

**44.** For sub-section (1) of section 209 of the said Code, the following sub-section shall be substituted, namely —  
Amendment of section 209, Code of Criminal Procedure, 1898

"**209.** (1) When the evidence referred to in section 208, sub-sections (1) and (3), has been taken and he has, if necessary, examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he is not satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, record his reasons and discharge him."

**45.** For sub-section (1) of section 210 of the said Code, the following sub-sections shall be substituted, namely —  
Amendment of section 210, Code of Criminal Procedure, 1898

"**210.** (1) When upon such evidence being taken and such examination, if any, being made the Magistrate is satisfied that there are

reasonable grounds for believing that the accused is guilty of an offence for which he should be committed for trial, he shall frame a charge under his hand declaring with what offence the accused is charged

(1A) If upon such evidence it appears to the Magistrate that such accused should be tried by himself or by any other Magistrate he shall proceed accordingly."

**46.** In section 214 of the said Code, for the words "sufficient grounds for committing the accused for trial," the words "reasonable grounds for believing that the accused is guilty of an offence for which he should be committed for trial" shall be substituted.  
Amendment of section 214, Code of Criminal Procedure, 1898

**47.** In section 216 of the said Code—  
Amendment of section 216, Code of Criminal Procedure, 1898

(e) In sub-section (1) for the words "The Magistrate" the words "The committing Magistrate or on the application of the complainant or officer conducting the prosecution any other Magistrate" shall be substituted

(2) In sub-section (2) for the words "if the accused so require, be given to him free of cost" the words "be given to the accused free of cost" shall be substituted

**48.** In sub-section (7) of section 221 for the words "has been previously convicted of any offence and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award," the following shall be substituted, namely —  
Amendment of section 221, Code of Criminal Procedure, 1898

"having been previously convicted of any offence, is liable by reason of such previous conviction, to enhanced punishment for any subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence."

**49.** To section 234 of the said Code, the following *Illustration* shall be added, namely —  
Amendment of section 234, Code of Criminal Procedure, 1898

"*Illustration* — A is accused of theft of property of B committed on the 1st January, 1911, and of the same offence committed on the 2nd May, 1911, in respect of property of C, and of the same offence committed on the 31st December, 1911, in respect of property of D. A. may be charged with and tried for all these offences at one trial."

**50.** Sub-section (2) of section 237 of the said Code shall be omitted.  
Amendment of section 237, Code of Criminal Procedure, 1898

**51.** After sub-section (3) of section 238 of the said Code, the following sub-section shall be added, namely —  
Amendment of section 238, Code of Criminal Procedure, 1898



"(4) When an accused is charged with an offence he may be convicted of an attempt to commit such offence or of abetment of such offence although the attempt or abetment is not separately charged."

Amendment of section 239, Code of Criminal Procedure, 1898.

**52.** For section 239 of the said Code, the following section shall be substituted, namely:—

"**239.** The following persons may be charged What persons may be and tried together, charged jointly, namely:—

- (a) persons accused of the same offence;
- (b) persons accused of an offence and persons accused of an abetment or of an attempt to commit such offence;
- (c) persons accused of more than one offence of the same kind within the meaning of section 234 committed by them together within the period of twelve months;
- (d) persons accused of different offences committed in the same transaction;
- (e) persons accused of offences which include theft, extortion, or criminal misappropriation and persons accused of receiving or retaining or assisting in the disposal or concealment of property possession of which has been transferred by the said offences or of abetment of or attempting to commit any of the last-named offences; and
- (f) persons accused of any offence under Chapter XII of the Indian Penal Code relating to counterfeit coin, and persons accused of any other offence under the said chapter relating to the same coin or of abetment of or attempting to commit any such offence.

And the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges."

**53.** In section 243 of the said Code, for the words "shall convict", the words "may convict" shall be substituted.

Amendment of section 243, Code of Criminal Procedure, 1898.

**54.** In sub-section (2) of section 241 of the said Code, for the word "process", the words "a summons" shall be substituted, and at the end of the sub-section, after the word "thing", the following shall be added, namely:—

"and if such witness does not appear or such document or other thing is not produced in obedience to such summons, and the summons is proved to have been duly served in time to admit of obedience thereto, the Magistrate may, if he thinks fit, issue further process to compel the attendance of such witness or the production of such document or other thing."

**55.** In sub-section (2) of section 245 of the said Code after the word "shall", the words "unless he proceeds in accordance with the provisions of section 349 or section 562" shall be inserted.

Amendment of section 245, Code of Criminal Procedure, 1898.

**56.** In section 250 of the said Code—

Amendment of section 250, Code of Criminal Procedure, 1898.

(i) For sub-sections (1) and (2) the following shall be substituted, namely:—

"**250.** (1) If, in any case instituted upon complaint or upon information given to a police-officer, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused and is of opinion that the accusation against them or any of them was frivolous or vexatious, the Magistrate may, in his discretion, by his order of discharge or acquittal, call upon the person upon whose complaint or information the accusation was made forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused, when there are more than one.

(2) The Magistrate shall record and consider any cause which such complainant or informant may show, and if he is satisfied that the accusation was frivolous or vexatious may, for reasons to be recorded, direct that compensation not exceeding rupees fifty be paid by such complainant or informant to the accused or to each or any of them.

(2A) Compensation for the payment of which an order is made under sub-section (2) shall be recoverable as if it was a fine, and the Magistrate may, by the order directing payment of the same, further order that, in default of payment, the person ordered to pay such compensation shall suffer simple imprisonment for a period not exceeding thirty days.

(2B) When any person is imprisoned under sub-section (2A) the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply.

(ii) In sub-section (3) for the word and figure "sub-section (1)" the word and figure "sub-section (2)" shall be substituted.

**57.** In sub-section (1) of section 256 of the said Code, after the words "to state", the word "forthwith" shall be inserted.

**58.** In sub-section (2) of section 258 of the said Code, after the word "shall", the words "unless he proceeds in accordance with the provisions of section 349 or section 562" shall be inserted.

In section 259 of the said Code, after the words "may be lawfully compounded", the words "or is not a cognizable offence" shall be inserted.

Amendment of section 259, Code of Criminal Procedure, 1898.

**60.** In sub-section (1) of section 260 of the said Code—

Amendment of section 260, Code of Criminal Procedure, 1898.

(i) After the signs, letter and words "(a) offences not punishable with death, transportation or imprisonment for a term exceeding six months," the following shall be inserted, namely:—

"(aa) offences under section 223 or 225-A of the Indian Penal Code."

(ii) For item (j), the following shall be substituted, namely:—

"(j) offences under section 504, 506 or 509 of the same Code."

XLV of 1898

Amendment of section 261, Code of Criminal Procedure, 1898

**61.** In section 261 of the said Code —

(i) In clause (a) for the word and figures "and 447", the figures and word "447 and 504" shall be substituted

(ii) For clause (b) the following clause shall be substituted, namely —

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"(b) offences against laws other than the Indian Penal Code punishable only with fine or with imprisonment for a term not exceeding one month"

**62.** In the third proviso to section 276 of the said Code, for the words "in the presidency-towns" the words "in a trial before any High Court established under the Indian High Courts Acts, 1861 to 1911, or the Chief Court of Lower Burma at the place where the sittings of any such Court are ordinarily held" shall be substituted

Amendment of section 282, Code of Criminal Procedure, 1898

**63.** In sub-section (1) of section 282 of the said Code, for the words "a new jury shall be added, or the jury shall be discharged and a new jury chosen", the following shall be substituted, namely —

"or if for any other sufficient cause the Judge thinks it necessary,

(a) a jury may be discharged and a new juror chosen in his place, or

(b) the jury shall be discharged and a new jury chosen."

**64.** In sub-section (2) of section 285 of the said Code, after the words "absent themselves," the words "or if for any other sufficient reason the Judge thinks such a course necessary" shall be inserted

**65.** To sub-section (2) of section 286 of the said Code, the following shall be added, namely:—

"and if he does not examine any witness examined for the prosecution in the Court of the committing Magistrate, shall offer such witness for cross-examination by the accused"

Provided that no witness shall be examined by the prosecutor under this sub-section unless the evidence of such witness—

(a) has been recorded by the committing Magistrate before commitment, or

(b) has been recorded after commitment in accordance with the provisions of section 219 and a copy of such evidence has been given to the accused not less than twenty-four hours before such witness is tendered for examination at the trial"

**66.** To section 288 of the said Code, after the words "as evidence in the case," the following shall be added, namely —

"either to prove the facts therein deposed to, or to corroborate the witness or, subject to the provisions of section 145 of

the Indian Evidence Act, 1872, to contradict such witness"

**67.** For section 292 of the said Code, the following section shall be substituted, namely:—

Amendment of section 292, Code of Criminal Procedure, 1898

**292.** The prosecutor shall be entitled to reply—

(a) if the accused on any of the accused adduces any evidence, or

(b) with the permission of the Court on a point of law.

Provided that, when an accused person in cross-examining any witness for the prosecution either proves a previous statement of any such witness for the purpose of contradicting him, or proves any document which has been produced by the prosecution either before the committing Magistrate or at the trial, such accused person shall not be deemed to have adduced evidence within the meaning of this section"

**68.** In sub-section (2) of section 306 of the said Code, after the word "shall", where it occurs for the second time, the words "unless he proceeds in accordance with the provisions of section 562" shall be inserted

Amendment of section 307, Code of Criminal Procedure, 1898

**69.** In section 307 of the said Code,—

(i) In sub-section (1) for the words "the accused" the words "any accused person" shall be substituted, and after the words "to submit the case," the words "in respect of such accused person" shall be inserted

(ii) In sub-section (2) for the words "the accused", wherever they occur, the words "such accused" shall be substituted

Amendment of section 309, Code of Criminal Procedure, 1898

**70.** In section 309 of the said Code—

(i) In sub-section (1) for the words "and shall record such opinion," the following shall be substituted, namely —

"and for the purpose of ascertaining such opinion shall ask each assessor such questions as he thinks necessary, such questions and the answers thereto shall be recorded"

(ii) In sub-section (3) after the word "shall" the words "unless he proceeds in accordance with the provisions of section 562" shall be inserted

**71.** For section 310 of the said Code, the following section shall be substituted, namely:—

**310.** In the case of a trial by a jury or with the aid of assessors when the accused is charged with an offence and further charged that he is by reason of a previous conviction liable to enhanced punishment for such subsequent offence, the procedure contained in the foregoing provisions of this Chapter shall be modified as follows, namely —

(a) The accused shall not be called upon to plead to the charge of previous conviction, nor shall any evidence be adduced on that charge until—

(i) he has been convicted of the subsequent offence, or

(ii) the verdict of the jurors or a majority of the jurymen has been delivered, or the opinion of the assessors has been recorded on the charge of the subsequent offence

(b) In the case of a trial by a jury when the jury or a majority of the jury have delivered a verdict of 'not guilty' on the charge of the subsequent offence, or in any trial held with the aid of assessors, the Court may, in its discretion, refrain from proceeding with the trial of the accused on the charge of the previous conviction "

**72.** For section 312 of the said Code, the following section shall be substituted, namely —  
Amendment of section 312, Code of Criminal Procedure, 1898

**"312.** The High Court shall prescribe the number of persons whose names shall be entered in any one time in the special jurors' list "

**73.** In sub-section (1) of section 315 of the said Code, after the words 'presidency-town' the words "or in the town of Rangoon" shall be inserted, and for the words "at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries," the words "as many of those who are liable to serve on special or common juries respectively as the Clerk of the Crown considers necessary" shall be substituted

**74.** In section 316 of the said Code, after the words "presidency-towns," the words "or in the case of the Chief Court of Lower Burma outside the town of Rangoon" shall be inserted

**75.** In section 337 of the said Code—

Amendment of section 337, Code of Criminal Procedure, 1898

(i) In sub-section (1) the word 'exclusively' shall be omitted

(ii) After sub-section (2) the following sub-section shall be inserted, namely —  
"(2A) When any person accepting a tender of pardon has been examined under sub-section (2), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of the offence, commit him for trial to the Court of Session or High Court, as the case may be:

"Provided that, if the District Magistrate has been invested with powers under section 30 and has not himself tendered the pardon, the case may be tried by him instead of being committed to the Court of Session "

(iii) In sub-section (3) for the words "if not on bail," the words "unless he is already on bail" shall be substituted

**76.** In section 339 of the said Code, after sub-section (1), the following sub-sections shall be inserted, namely:—  
Amendment of section 339, Code of Criminal Procedure, 1898

"(1A) Such person shall, when tried for the offence in respect of which the pardon was tendered, be entitled to plead that he has complied

with the conditions upon which such tender was made

"(1B) No prosecution under sub-section (1) shall be entertained without the sanction of the Magistrate by whom such pardon was tendered or of the District Magistrate

"(1C) The Court of Session or High Court may, on application made, order the detention in custody for a period not exceeding fourteen days of a person to whom a pardon has been tendered under section 337 or section 338 pending an application for the grant of sanction to prosecute such person under sub-section (1B) "

**77.** For section 310 of the said Code, the following section shall be substituted, namely —  
Amendment of section 310, Code of Criminal Procedure, 1898

**"310.** (1) Any person accused of an offence before a Criminal Court or against whom proceedings are instituted under this Code in any such Court may of right be defended

by a pleader.

(2) Any person against whom proceedings are instituted in any such Court under Chapters X, XI, XII or XXXVI or under section 552 may be examined as a witness in such proceedings "

**78.** In section 345 of the said Code—  
Amendment of section 345, Code of Criminal Procedure, 1898

(i) For sub-section (2) the following sub-sections shall be substituted, namely —

"(2) The offences punishable under the sections of the Indian Penal Code described in the first two columns of the table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that table —

Offence	Sections of the Indian Penal Code applicable	Persons by whom offence may be compounded
Voluntarily causing hurt by dangerous weapons or means	324	The person to whom hurt is caused
Voluntarily causing grievous hurt	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others	338	Ditto.
Wrongfully confining any person for three days or more	348	The person confined
Wrongfully confining a person in secret	349	Ditto.
Assault or criminal force in attempting wrongfully to confine a person	357	The person assaulted or to whom the force was used.
Cheating	417	The person cheated
House trespass to commit an offence (other than theft) punishable with imprisonment	461	The person in possession of the house trespassed upon
Marrying again in the life-time of a wife or husband	494	The husband or wife in whose life-time the second marriage is made
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman	509	The woman whom it is intended to insult or whose privacy is intruded upon

(2A) Any person making a complaint of an offence other than an offence specified in sub-section (1) or sub-section (2) may, with the permission of the Court before which any prosecution for such offence is pending, compound such offence if it is not punishable with death or transportation or imprisonment for a period exceeding six months.

(ii) In sub-section (4) for the words "any person competent to contract on his behalf may" the words "the guardian or any other person lawfully entrusted with the care and custody of the person or property of such person may with the permission of the Court" shall be substituted.

**79.** In sub-section (1) of section 347 of the said Code, the words "stop further proceedings and" shall be omitted.

**80.** (1) Section 345 of the said Code shall be renumbered 348 (1) and in the said sub-section, as renumbered, after the word "shall" the words "if the Magistrate is satisfied that there are reasonable grounds for believing that such person is guilty of the offence of which he is accused" shall be inserted.

(2) To the same section the following section shall be added, namely—

"(2) When any person is committed to the Court of Session or High Court under sub-section (1), any other person accused jointly with him in the same inquiry or trial shall be similarly committed if the Magistrate before whom the case is pending is satisfied that there are reasonable grounds for believing that such other person has committed the offence of which he is accused."

**81.** After sub-section (1) of section 349, the following sub-section shall be inserted, namely—

"(1A) When more persons than one are being tried together and the Magistrate considers it necessary to proceed under sub-section (1) in relation to some of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-Divisional Magistrate."

**82.** After sub-section (2) of section 350 of the said Code, the following sub-section shall be added, namely—

"(3) When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein and to be succeeded by the latter within the meaning of sub-section (1)."

**83.** In section 360 of the said Code—

(a) For sub-section (1) the following sub-section shall be substituted, namely—

"**360.** (1) As the evidence of each witness taken under section 356 or section 357 is completed, it shall be read by or read to him, and shall, if necessary, be collected by the Magistrate or Sessions Judge, and, if the accused so desires, the evidence shall be read over to the witness in the presence of the accused or his pleader."

(ii) In sub-section (2), for the words "read over to him," the words "read by or to him" shall be substituted.

**84.** In section 362 of the said Code—

(i) In sub-section (3), after the word "sentence" the words "unless they are sentences of imprisonment ordered to run concurrently" shall be added.

(ii) After sub-section (3) the following sub-section shall be added, namely—

"(4) In cases other than those specified in sub-section (1), it shall not be necessary for a Presidency Magistrate to record the evidence or frame a charge."

**85.** In section 365 of the said Code, for the word "may" the word "shall" shall be substituted, and the words and signs "(if any)" shall be omitted.

**86.** In section 367 of the said Code—

(i) In sub-section (1), after the words "presiding officer of the Court," the words "or from the dictation of such presiding officer" shall be inserted.

(ii) To the same sub-section the following words shall be added, namely—

"and, where it is not written by the presiding officer with his own hand, every page of such judgment shall be so signed by him."

**87.** In section 386 of the said Code—

(i) for the words "by distress and sale of any moveable property," the words "by attachment and sale of any property" shall be substituted, and

(ii) after the words "the offender shall be imprisoned," the following shall be added, namely—"The Local Government may make rules regulating the manner in which warrants under this section are to be executed and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant."

**88.** In section 387 of the said Code, for the word "distress" the word "attachment" shall be substituted.

**89.** In sub-section (1) of section 388 of the said Code—

(i) For the words "and the Court issues a warrant under section 386, if," the words "the Court" shall be substituted.

(ii) For the words "on the day appointed for the return of such warrant such day not being," the words "on a date not" shall be substituted.

**90.** In section 395 of the said Code—

(i) In sub-section (1) after the words "twelve months," the words "or to a fine not exceeding one thousand rupees" shall be inserted.

(ii) In sub-section (2) after the words "for a term" the words "or fine of an amount" shall be inserted.

Amendment of section  
397, Code of Criminal  
Procedure, 1898

**91.** In section 397 of the said Code—

(i) After the words "to which he has been previously sentenced" the words "unless the Court direct that the subsequent sentence shall run concurrently with such previous sentence" shall be inserted

(ii) To the same section the following explanation shall be added, namely—

"*Explanation*—An order under section 125 directing that a person be committed to or detained in prison in default of furnishing security is a sentence of imprisonment within the meaning of this section."

Amendment of section  
401, Code of Criminal  
Procedure, 1898

**92.** In section 401 of the said Code—

(i) To sub-section (2), after the words "together with his reasons for such opinion," the following words shall be added, namely—

"and also to forward with the statement of such opinion the record of the trial before him"

(ii) After sub-section (6) the following *Explanation* shall be added, namely—

"*Explanation*—A person committed to or detained in prison in accordance with the provisions of section 123 is a person sentenced to punishment for an offence for the purposes of this section"

**93.** Section 402 of the said Code shall be re-numbered sub-section (i) of the said section and to the same section the following sub-section shall be added, namely—

**XLV of 1860.** (2) Nothing in this section shall affect the provisions of the Indian Penal Code, section 55"

**94.** (1) In section 406 of the said Code, after the word "security", the words "for keeping the peace or" shall be inserted

(2) To the same section the following proviso shall be added, namely—

"Provided that nothing in this section shall apply to cases the proceedings of which are laid before a Sessions Judge, in accordance with the provisions of sub-section (2) of section 123"

**95.** In sub-section (1) of section 407 of the said Code, after the figures "349" the words and figures "or in respect of whom an order has been made or a sentence passed under section 350" shall be inserted

Amendment of section  
408, Code of Criminal  
Procedure, 1898

**96.** In section 408 of the said Code—

(i) After the figures "349" the following words shall be inserted, namely, "or in respect of whom an order has been made or a sentence passed under section 380"

(ii) In clause (b) of the proviso after the word "appeal" the following words shall be inserted, namely—

"of all or any of the accused sentenced at such trial."

**97.** To section 413 of the said Code, the following proviso shall be added, namely:—

Amendment of section  
413, Code of Criminal  
Procedure, 1898

"Provided that when two or more persons are convicted at one trial, and any one of them is sentenced to imprisonment exceeding one month or to a fine exceeding fifty rupees, all or any of the persons convicted at such trial shall have a right of appeal"

**98.** Section 118 of the said Code shall be re-numbered section 418 (1) and to the same section the following sub-section shall be added, namely—

"(2) Notwithstanding anything contained in sub-section (1) or in section 423 (2), when, in the case of a trial by jury, any person is sentenced to death, any other person convicted in the same trial with the person so sentenced, may appeal on a matter of fact as well as a matter of law."

**99.** For section 429 of the said Code, the following section shall be substituted, namely—

Amendment of section  
429, Code of Criminal  
Procedure, 1898

"**429** When the Judges composing the Court of Appeal are equally divided in opinion, the case shall be reheard before them and another Judge of the Court, and the judgment or order shall follow the opinion of the majority of the Judges so rehearing the case"

Amendment of section  
435, Code of Criminal  
Procedure, 1898

**100.** In section 435 of the said Code—

(i) In sub-section (1) the words "empowered by the Local Government in this behalf" shall be omitted

(ii) To the same sub-section the following words shall be added after the words "proceedings of such inferior Court," namely—

"and may when calling for such record direct that the execution of any sentence be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record"

(iii) For sub-section (3) the following shall be substituted, namely—

"(3) Orders made under sections 143, 144 and 476, complaints made or sanctions granted under section 195 and proceedings under Chapter XII and section 176 are not proceedings within the meaning of this section"

(iv) After sub-section (4) the following *Explanation* shall be added, namely—

"*Explanation*—All Magistrates, whether exercising original or appellate jurisdiction, are inferior to the Sessions Judge within the meaning of this section"

**101.** In section 436 of the said Code, for the words "instead of directing a fresh inquiry, order him", the words "direct that further

inquiry be made into the case or order the accused" shall be substituted

**102.** In section 437 of the said Code, for the words "accused person" the words "person accused of an offence" shall be substituted.

Amendment of section  
437, Code of Criminal  
Procedure, 1898.

**103.** In sub-section (2) of section 438 of the said Code after the word 'Chapter' the words "in the absence of the Sessions Judge or" shall be inserted

Amendment of section 438, Code of Criminal Procedure, 1898

**104.** In section 464 of the said Code—

(2) After sub-section (1), the following sub-section shall be inserted, namely—

"(1A) Pending such examination and inquiry, the Magistrate may deal with the accused in accordance with the provisions of section 466"

(ii) In sub-section (2) after the word "he" the words "shall record a finding to that effect, and" shall be inserted

**105.** In sub-section (1) of section 465 of the said Code for the words "and if satisfied of the fact" shall pass judgment accordingly and thereupon the trial shall be postponed", the following words shall be substituted, namely—

"and if the jury or Court is satisfied of the fact, the Judge shall record the finding and shall postpone further proceedings in the case and the jury, if any, shall be discharged"

Amendment of section 465, Code of Criminal Procedure, 1898

**106.** In section 466 of the said Code—

(2) In sub-section (1) for the words "if the case is one in which bail may be taken" the words "whether the case is one in which bail may be taken or not" shall be substituted

(ii) For sub-section (2) the following sub-section shall be substituted, namely—

"(2) If the case is one in which, in the opinion of the Magistrate or Court, bail should not be taken or if sufficient security is not given, the Magistrate or Court, as the case may be, shall order the accused to be kept in safe custody in such place and manner as he or it may think fit.

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the Local Government may make in this behalf"

**107** To sub-section (2) of section 468 of the said Code, the following words shall be added, after the words "as the case may be", namely—

"and shall deal with such accused in accordance with the provisions of section 466"

**108** To sub-section (1) of section 471 of the said Code, the following proviso shall be added, namely—

"Provided that the Magistrate or Court may, on the application of any relative or friend of the accused person, order him to be delivered to such relative or friend on the terms and conditions mentioned in sub-section (1) of section 475.

' Provided further that no order for the detention of the accused person in a lunatic asylum shall be made otherwise than in accordance with such rules as the Local Government may make in this behalf'

Amendment of section 471, Code of Criminal Procedure, 1898

**109.** In section 474 of the said Code—

(i) In sub-section (1), for the words "Local Government" the words "Magistrate or Court under whose order he is confined" shall be substituted

(ii) In sub-section (2) for the words "Local Government, which" the words "Magistrate or Court under whose order he is confined and such Magistrate or Court" shall be substituted

(iii) In sub-sections (1) and (2) for the word "it" the words "he or it" shall be substituted

**110.** For section 475 of the said Code, the following section shall be substituted, namely—

"**475.** (1) Whenever any relative or friend of Delivery of lunatic to any person confined under care of relative or friend the provisions of section 466 or section 471 deems that he shall be delivered over to his care and custody, the Magistrate or Court under whose order such person is confined may, upon the application of such relative or friend and on his giving security to the satisfaction of such Magistrate or Court that the person delivered shall,

(a) be properly taken care of and prevented from doing injury to himself or to any other person, and

(b) be produced for the inspection of such officer and at such times and places as the Magistrate or Court directs, and

(c) in the case of a person confined under section 466 be produced when required before such Magistrate or Court,

order such person to be delivered to such relative or friend

"(2) If the person so delivered is accused of any offence, the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer appointed under sub-section (1) certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court, and upon such production, the Magistrate or Court shall proceed in accordance with the provisions of section 468, and the certificate of the inspecting officer shall be receivable as evidence"

Amendment of section 476, Code of Criminal Procedure, 1898

**111.** In section 476 of the said Code—

(2) In sub-section (1) after the words "first class," the words "or when the offence has been committed or brought under notice in a judicial proceeding in a presidency-town to any salaried Presidency Magistrate," shall be inserted.

(11) In sub-section (2) after the figures "192" the words and figures "or section 525" shall be inserted

Amendment of section 112. In section 488 of 188, Code of Criminal the said Code— Procedure, 1898

(1) In sub-section (1) for the word "fifty" the words "one hundred" shall be substituted

(2) In sub-section (3) the word "wilfully" shall be omitted

(3) In the same sub-section for the words "may sentence such person for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant to imprisonment for a term which may extend to one month" the following words shall be substituted, namely, "may, if the whole or any part of such amount due remains unpaid after the execution of the warrant, sentence such person to imprisonment for a term not exceeding six months"

(4) To the same sub-section the following proviso shall be added, namely, "Provided further that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due"

(5) In sub-section (4) for the words "is living in" the words "at any time commits" shall be substituted

(6) In sub-section (5) for the words "is living in" the word "his after the date of such order committed" shall be substituted

(7) In sub-section (7) for the words "The accused" the words "Any person against whom proceedings are taken under this section" shall be substituted

(8) In sub-section (9) for the words "the accused may be proceeded against" the words "proceedings under this section may be taken against any person," shall be substituted

Amendment of section 113. In section 489 of the said Code, for the word "fifty" the words "one hundred" shall be substituted 489, Code of Criminal Procedure, 1898

Amendment of section 114. In sub-section (3) of section 491 of the said Code, after the figures "1858", the words and figures "or the Indian Extradition Act, 1903" shall be added 491, Code of Criminal Procedure, 1898

Amendment of section 115. In sub-section (2) of section 492 of the said Code— 492, Code of Criminal Procedure, 1898

(i) The words "In any case committed for trial to the Court of Session" shall be omitted, and for the words "such case" the words "any case" shall be substituted

(ii) For the words "Assistant District Superintendent" the words "District Superintendent as defined in the Police Act, 1861" shall be substituted

116. In section 494 of the said Code—

Amendment of section 494, Code of Criminal Procedure, 1898 (i) After the words "prosecution of any person" the words "for any or all of the offences for which he is being tried" shall be inserted

(ii) After the word "discharged" in sub-clause (a) the words "in respect of such offence or offences" shall be inserted

(iii) After the word "acquitted" in sub-clause (b) the words "in respect of such offence or offences" shall be added

Amendment of section 117. To sub-section (1) of section 197 of the said Code, the following proviso shall be added, namely— 497, Code of Criminal Procedure, 1898

"Provided that the Court may, in any case, for reasons to be recorded, direct that any minor, woman or sick or infirm person accused of a non-bailable offence be released on bail"

118. After sub-section (1) of section 504 of the said Code, the following sub-section shall be inserted, namely— Amendment of section 504, Code of Criminal Procedure, 1898

"(1A) When a commission is issued under this section to a Chief Presidency Magistrate, he may delegate his power and duties under the commission to any other Presidency Magistrate subordinate to him"

119. In sub-section (1) of section 505 of the said Code, after the word "directed" the words "or to whom the duty of executing such commission has been delegated" shall be inserted Amendment of section 505, Code of Criminal Procedure, 1898

120. In sub-section (6) of section 514 of the said Code, the words "but the party who gave the bond may be required to find a new surety" shall be omitted, and after the said sub-section the following sub-section shall be added, namely— Amendment of section 514, Code of Criminal Procedure, 1898

"(7) When any person who has furnished security under section 100 or section 118 or section 502 is convicted of an offence the commission of which constitutes a breach of the condition of his bond, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and if such certified copy is so used, the Court shall presume that such offence was committed unless the contrary is proved"

121. After section 514 of the said Code the following section shall be inserted, namely— Addition of new section 514A, Code of Criminal Procedure, 1898

"514A. When any surety to a bond dies, or when any bond is forfeited under the provisions of section 514, the Court by whose order such bond was taken or a Presidency Magistrate or Magistrate of the first class may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order"



**122.** In Chapter XLIII of the said Code, Addition of new section 516A, Code of Criminal Procedure, 1898 before section 517, the following section shall be inserted, namely —

**"516A.** When any property regarding which Order for custody and disposal of property pending trial in certain cases has been used for the commission of any offence is produced before any criminal Court during any inquiry or trial, the Court may make such order, as it thinks fit, for the proper custody of such property pending the conclusion of the inquiry or trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of"

Amendment of section 517, Code of Criminal Procedure, 1898 **123.** In section 517 of the said Code—

(2) In sub-section (1) after the word "disposal" the words "by destruction, confiscation, restoration to the person claiming to be entitled to the possession thereof or otherwise" shall be inserted

(22) For sub-section (3) the following sub-section shall be substituted, namely —

"(3) When an order is made under this section in a case in which an appeal lies (other than an appeal under section 417), such order shall not, except where the property is livestock or subject to speedy and natural decay and save as hereinafter provided, be carried out until the time for presenting such appeal has passed or, when such appeal is presented, until such appeal has been disposed of"

(222) After sub-section (3), the following sub-section shall be inserted, namely —

"(4) Nothing in sub-section (3) shall be deemed to prohibit any Court from restoring any property under the provisions of sub-section (1) to the possession of any person claiming to be entitled to the possession thereof on his executing a bond with or without sureties to the satisfaction of the Court engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal"

Amendment of section 522, Code of Criminal Procedure, 1898 **124.** In section 522 of the said Code—

(2) In sub-section (1) after the word "force", wherever it occurs, the words "show of criminal force or criminal intimidation" shall be inserted

(22) In the same sub-section after the words "thinks fit" the words "at any time within six months of the date of the conviction" shall be inserted.

(222) After sub-section (2), the following sub-section shall be added, namely —

"(3) An order under this section may be made by an Appellate Court or by a High Court when exercising its powers of revision"

**125.** In section 525 of the said Code, after the word "owner", the words "or that the value of such property is less than Rs 20, or that it is of such a nature that it cannot be identified by the owner" shall be inserted.

Amendment of section 526, Code of Criminal Procedure, 1898 **126** In section 526 of the said Code —

(1) In sub-clauses (2) and (3) of clause (e) of sub-section (1) the word "criminal" before the word "case" and in sub-clause (2) the word "such" before the word "cases" shall be omitted

(22) For sub-section (8) the following sub-section shall be substituted, namely —

"(8) If before the commencement of the hearing of any case or appeal under this section the Public Prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under this section in respect of such case or appeal, the Court shall, before the accused is called on to enter upon his defence, or before the appeal is heard, adjourn the case or postpone the appeal for such a period as will afford a reasonable time for the application being made and an order obtained thereon."

Provided that a Sessions Judge shall not be required to adjourn a trial under this sub-section when the accused having been committed not less than ten days before the commencement of such trial has not given seven days' notice in writing to the Sessions Judge of his intention to make an application under this section"

**127.** In sub-section (1) of section 527 of the said Code, the word "criminal", where it occurs before the word "case", shall be omitted

Amendment of section 528, Code of Criminal Procedure, 1898 **128.** In section 528 of the said Code—

(1) After sub-section (2), the following sub-section shall be inserted, namely —

"(2A) Any Chief Presidency Magistrate or District Magistrate may by general or special order empower any Magistrate subordinate to him—

- (a) to transfer for inquiry or trial any case of which he or any Magistrate subordinate to such Chief Presidency Magistrate or District Magistrate, as the case may be, has taken cognizance to any other such Magistrate competent to inquire into or try the same, and
- (b) to withdraw any case from or recall any case made over to any Magistrate subordinate to such Chief Presidency Magistrate or District Magistrate and to inquire into or try such case himself.

Provided that no Magistrate other than a Magistrate of the first class shall be empowered by the District Magistrate to transfer, withdraw or recall cases under this sub-section"

(22) For sub-section (4) the following sub-section shall be substituted, namely —

"(4) The head of a village under Madras Regulation XI of 1816 or Madras Regulation IV of 1821 is a Magistrate for the purposes of this section"

**129.** In clause (b) of section 537 of the said Code, after the figures "195", the words, figures and letter "or any irregularity in any order under section 196 or section 196A, shall be inserted.



Insertion of new sections 539A and 539B, Code of Criminal Procedure, 1898

**130.** After section 539 of the said Code, the following sections shall be inserted, namely —

**“539A. (1)** When any application is made to a Magistrate in proof of any offence committed by any public servant in the course of his conduct of public duty, any trial or inquiry under this Code, and allegations are made therein respecting the conduct of any public servant, the Court may, if it thinks fit, order that evidence of the facts alleged in such application be given by affidavit. An affidavit to be used before any Court other than a High Court under this section may be sworn and affirmed in the manner prescribed in section 539 or before any Magistrate.

Affidavits under this section shall state separately facts which the deponent is able to prove of his own knowledge and facts to which he deposes on the information of others.

Provided that no accused person shall be called on to make any affidavit himself under this section.

(2) The Court may order any scandalous or unnecessary matter in an affidavit to be struck out or amended.

(3) The Court may order the appearance of any person making an affidavit under this section for cross-examination before the Court.

**“539B.** Any Judge or Magistrate may, at any stage of any inquiry or trial, order a local inspection to be made, and visit and inspect any place in which an offence is alleged to have been committed or any other place which it is in his opinion necessary to view for the purpose of such inquiry or trial, and shall record forthwith a memorandum of any facts observed at such inspection and shall furnish to the accused if he so desires a copy of such memorandum.”

**131.** After section 540 of the said Code, the following section shall be inserted, namely —

**“540A. (1)** At any stage of an inquiry or trial under this Code where two or more accused are before the Court, the Court may, if it is satisfied, for reasons to be recorded, that some of such accused are incapable of remaining at the bar, dispense with the attendance of such accused and proceed with the inquiry or trial, permitting such accused to appear by pleader.”

(2) But the Court inquiring into or trying such case may at any subsequent stage of the proceedings direct the personal attendance of such accused and, if necessary, shall adjourn the case to secure such attendance.

**132.** In section 544 of the said Code, the words “with the previous sanction of the Governor General in Council” shall be omitted.

**133.** In section 545 of the said Code —

(a) For clause (b) of sub-section (1) the following clause shall be substituted, namely :—

“(b) in the payment to any person of compensation for any loss or injury caused by the offence when substantial compensation is, in the opinion of the Court, recoverable by such person in a civil Court.”

(ii) To sub-section (1) the following clause shall be added, namely —

“(c) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, cheating or the dishonest receipt of stolen property knowing or having reason to believe the same to be stolen, in compensating any other person who has bought the stolen property without knowing or having reason to believe that the same was stolen, for the loss of the same if such property is restored to the possession of the person entitled thereto.”

**134.** After section 546 of the said Code, the following section shall be inserted, namely —

**“546A.** Whenever any complaint of a non-cognizable offence is made to a Court, the Court if it convicts the accused shall, in addition to the penalty imposed upon him, order him to pay to the complainant—

(a) the fee (if any) paid on the petition of complaint, or for the examination of the complainant, and

(b) any fees paid by the complainant for serving processes on his witnesses or on the accused.”

**135.** After section 559 of the said Code, the following section shall be inserted, namely —

**“559A. (1)** The powers and duties of a Judge or Magistrate under this Code may, save as otherwise expressly provided, be exercised or performed by his successor in office.

(2) When the successor in office of any Magistrate cannot be ascertained, the Chief Presidency Magistrate in a Presidency town and the District Magistrate outside such towns shall determine by order in writing what Magistrate shall be deemed to be for the purposes of this Code or of any proceedings or order thereunder the successor in office of such Magistrate.”

**136.** After section 561 of the said Code, the following section shall be inserted, namely —

**“561A.** Nothing in this Code shall be deemed to limit or affect the inherent power of the Court to make such orders as may be necessary to give effect to any order under this Code or to prevent abuse of the process of the Court.”

**137.** For section 562 of the said Code, the following section shall be substituted, namely —  
 Amendment of section 562, Code of Criminal Procedure, 1898

**"562 (1)** In any case in which a person is convicted of an offence punishable with not more than three years' imprisonment and fine, or of an offence punishable under section 317 or section 325 or

Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment

section 335 or section 381 of the Indian Penal Code, and no previous conviction is proved against him, if it appears to the Court before whom he is convicted, regard being had to the age, character or antecedents of the offender, to the nature of the offence and to any extenuating circumstances under which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties and during such period (not exceeding three years) as the Court may direct him to appear and receive sentence when called upon and in the meantime to keep the peace and be of good behaviour.

Provided that, where any first offender is convicted by a Magistrate of the third class or a Magistrate of the second class not specially empowered by the Local Government in this behalf and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the first class or Sub-Divisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 340.

Provided further that, when the person so convicted is a minor, the Court may release him upon the execution of the bond referred to in this section by a surety or sureties only.

(2) An order under this section may be made by any Appellate Court or by the High Court when exercising its powers of revision.

(3) When an order has been made under this section in respect of any offender, the High Court may, on appeal, when there is a right of appeal to such Court or when exercising its powers of revision in any other case, set aside such order and in lieu thereof pass sentence on such offender according to law.

Provided that, when the order under this section is made by a Magistrate acting otherwise than under section 84, the High Court shall not, under this sub-section, inflict a greater punishment than might have been inflicted by a Presidency Magistrate or Magistrate of the first class.

(4) The provisions of section 122 shall, so far as may be, apply to all bonds executed in pursuance of the provisions of this section."

**138.** For section 565 of the said Code, the following shall be substituted, namely —  
 Amendment of section 565, Code of Criminal Procedure, 1898

Order for notifying address of previously convicted offender

**"565 (1)** When any person having been convicted—

(a) by a Court in British India of an offence punishable under sections 215, 489A,

489B, 489C, or 489D of the Indian Penal Code, or under Chapter XII or Chapter XVII of the said Code with imprisonment of either description for a term of three years or upwards, or

(b) by a Court or tribunal in the territories of any Native Prince or State in India acting under the general or special authority of the Governor General in Council or of any Local Government of any offence which would if committed in British India have been punishable under any of the aforesaid sections or Chapters of the Indian Penal Code with like imprisonment for a like term,

is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or any Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of, or absence from, such residence after release be notified, as hereinafter provided, for a term not exceeding five years from the date of the expiration of such sentence.

(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

(3) The Local Government, with the previous sanction of the Governor General in Council, may make rules to carry out the provisions of this section relating to the notification of residence or change of residence or absence from residence, by released convicts.

(4) Any person refusing or neglecting to comply with any rule so made shall be punishable with imprisonment which may extend to six months or to a fine which may extend to one thousand rupees or with both.

(5) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision."

**139.** In Schedule II of the said Code—  
 Amendment of Schedule II, Code of Criminal Procedure, 1898

(1) In column (1) the figures "405" occurring between the figures "404" and "406" shall be omitted.

(2) In column 3 of the entry against section 213 for the words "Shall not arrest without warrant", the word "Ditto" shall be substituted.

(3) In column 3 of the entry against section 214 for the word "Ditto" the words "Shall not arrest without warrant" shall be substituted.

(4) In column 3 of the entry against section 215 for the word "Ditto" the words "May arrest without warrant" shall be substituted.

(5) In column 3 of the entry against section 216 for the words "May arrest without warrant" the word "Ditto" shall be substituted.

(6) In column 3 of the entry against section 341 for the words "May arrest without warrant,"

the words "Shall not arrest without warrant" shall be substituted

(7) In column 3 of the entry against section 342 for the word "Ditto", the words "May arrest without warrant" shall be substituted

(8) In column 3 of the entry against section 374 for the word "Ditto", the words "Shall not arrest without warrant" shall be substituted

(9) In column 6 of the entries against sections 313, 316 and 357, for the words "Not compoundable," "Ditto," and "Ditto," respectively, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted, and in the same column, for the word "Ditto" against each of sections 314 and 317 the words "Not compoundable" shall be substituted

(10) In column 6 of the entry against section 403, the word "Not" shall be omitted

(11) In column 6 of the entry against section 417, for the words "Not compoundable" the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted, and in the same column for the word "Ditto" against section 418 the words "Not compoundable" shall be substituted

(12) In column 6 of the entry against section 451 for the words "Not compoundable" the following shall be substituted, namely—"Compoundable when permission is given by the Court before which the prosecution is pending", and for the word "Ditto" the words "Not compoundable" shall be substituted

(13) In column 6 of the entry against section 452, for the word "Ditto" the words "Not compoundable" shall be substituted

(14) In column 6 of the entry against each of sections 494 and 500 for the word "Ditto" the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted, and in the same column for the word "Ditto" against each of sections 495 and 510 the words "Not compoundable" shall be substituted

(15) In column 7 of the entry against section 477A for the word "Ditto," the words "Imprisonment of either description for seven years, or fine, or both" shall be substituted

(16) In column 8 of the entry against section 294, for the word "Ditto" the words "Any Magistrate" shall be substituted

(17) In column 8 of the entry against section 317, for the word "Ditto," the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted

(18) In column 8 of the entry against section 366 for the words "Court of Session" the words "Court of Session, Presidency Magistrate or Magistrate of the first class" shall be substituted.

(19) In column 8 of the entry against section 367 for the word "Ditto" the words "Court of Session" shall be substituted

(20) In column 8 of the entry against sections 368 and 395, for the words "Ditto" and "Court of Session", respectively, the words "Court of Session, Presidency Magistrate or a Magistrate of the first class" shall be substituted

(21) In column 8 of the entry against section 396, for the word "Ditto" the words "Court of Session" shall be substituted

Amendment of Schedule III Code of Criminal Procedure, 1898 **140** In Schedule III of the said Code—

(i) Under Head I (*Ordinary powers of a Magistrate of the third class*) —

(1) in item (5) after the word "property" the words "and to dispose of claims to attached property" shall be inserted

(2) the following shall be inserted between items (14) and (15), namely —

"(14a) Power to postpone issue of process, section 202"

(3) to item (18) the words, figures and letter, "and to require fresh security, section 514A" shall be added

(4) after item (18) the following shall be inserted, namely —

"(18A) Power to make order as to custody and disposal of property pending inquiry or trial, section 516A"

(5) in item (20) the word "perishable" shall be omitted

(6) after item (20) the following shall be added, namely —

"(20a) Power to require affidavit in support of application, section 530A,

(20b) Power to make local inspection, section 539B"

(ii) From Head II (*Ordinary powers of a Magistrate of the second class*), the following item shall be omitted, namely —

"(3) Power to postpone issue of process, section 202", and item (4) shall be re-numbered (3)"

(iii) Under Head III (*Ordinary powers of a Magistrate of the first class*) —

(1) between items (6) and (7) the following item shall be inserted, namely —

"(6a) Power to make orders as to local nuisances, section 133",

(2) between items (7) and (8) the following item shall be inserted, namely —

"(7a) Power to hold requests, section 174";

(3) After item (12) the following shall be inserted, namely —

"(12a) Power to require fresh security, section 514A"

(4) after item (13) the following item shall be added, namely —

"(14) Power to order released convicts to notify residence, section 565"

(iv) Under Head IV (*Ordinary powers of a Sub-Divisional Magistrate*) —

(1) after item (16) the following shall be inserted, namely —

"(16a) Power to call for records, section 495"

(2) the following items shall be omitted, namely :—

"(4) Power to make orders as to local nuisances," section 133;

"(10) Power to hold inquest, section 174";

"(20) Power to order released convicts to notify residence, section 565."

(v) From Head V (*Ordinary powers of a District Magistrate*) item (11) shall be omitted, and items (12) to (20) shall be re-numbered (11) to (19), respectively.

Amendment of Schedule IV, Code of Criminal Procedure, 1898. **141.** In Schedule IV of the said Code—

(i) From the list of powers with which a Magistrate of the first class may be invested by the Local Government, the following shall be omitted, namely :—

"(3) Power to make orders as to local nuisances, section 133";

"(6) Power to hold inquests, section 174";

"(14) Power to order released convicts to notify residence, section 565."

(ii) In the list of powers with which a Magistrate of the first class may be invested by the District Magistrate, item (3), namely, "power to hold inquests, section 174," shall be omitted, and in item (6) for the figures "192" the figures "528" shall be substituted.

(iii) The entry relating to the powers with which a Sub-Divisional Magistrate may be invested shall be omitted.

Amendment of Schedule V, Code of Criminal Procedure, 1898. **142.** In Schedule V of the said Code—

(i) In Form VI—

(a) IN THE ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS for the words "Proclamation was duly issued" the words "Proclamation has been or is being duly issued" shall be substituted, and the words "and he has failed to appear" shall be omitted.

(b) IN THE ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED for the words "a Proclamation was duly issued" the words "a Proclamation has been or is being duly issued" shall be substituted.

(c) IN THE ORDER AUTHORIZING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR for the words "a Proclamation was duly issued" the words "a Proclamation has been or is being duly issued" shall be substituted, and the words "but he has not appeared" shall be omitted.

(ii) In Forms X and XI after the words "for the term of", wherever they occur, the words "or until the completion of the inquiry in the matter of now pending in the Court of", and after the words "said term", wherever they occur, the words "or until the completion of the said inquiry" shall be inserted.

(iii) In each of Forms XXXVII, and XLI the following amendments shall be made, namely :—

(a) in the title for the word "distress" the word "attachment" shall be substituted,

(b) for the words "make distress by seizure of any moveable" the words "attach any" shall be substituted,

(c) for the words "such distress" the words "such attachment" shall be substituted, and

(d) for the words "moveable property distrained" the words "property attached" shall be substituted.

**143.** Section 31 of the Court-fees Act, 1870, is VII of 1870.

Repeal of section 31, hereby repealed.  
Court-fees Act, 1870.

## STATEMENT OF OBJECTS AND REASONS

THE original Criminal Procedure Code of 1861 has been subsequently revised on three occasions, namely, in 1872, 1882 and 1898. Since the existing Code (Act V of 1898) was passed, a number of suggestions for the amendment of particular points have from time to time reached the Government of India, and the Police Commission in particular made various recommendations. The present Bill is the outcome of the examination of this accumulation of proposals, and is one of the series of revisions which experience of the actual working of the Code has necessitated from time to time.

The material changes included in the Bill are noticed briefly below —

*Clause 2* — At present an Additional District Magistrate can only be appointed for a period not exceeding six months, and it is doubtful whether such a magistrate can exercise the powers of a District Magistrate under any law except the Code. Experience has shown that the assistance of an Additional District Magistrate is not infrequently required for a longer time, and the limit of six months is therefore removed. At the same time the powers of such an officer are extended, and his position *vis-a-vis* the District Magistrate in respect of sections 192, 407 and 528 of the Code is defined.

*Clause 3* — Power is taken to define the term for which a Presidency Magistrate may be appointed, and provision is made for the appointment of an Additional Chief Presidency Magistrate to meet the contingency of such an officer being needed, which has been actually experienced in Calcutta.

*Clause 4* — This consequential amendment to clause 3 will permit of the definition of the position of an Additional Chief Presidency Magistrate *vis-a-vis* the Chief Presidency Magistrate.

*Clause 5* — The existing explanation and illustration to section 35 of the Code have occasioned considerable mis-understanding. It is therefore proposed to omit them and to state definitely that section 35 must be read subject to section 71 of the Indian Penal Code. It is also declared that aggregate sentences passed under section 35 in case of conviction for several offences at one trial shall only be deemed to be a single sentence for the purpose of appeal, if they run consecutively.

*Clause 6* — The amendment is intended to save the powers of officers on return from leave without the formality of regazetting them.

*Clause 7* — It is considered desirable to place upon the public an obligation to give information regarding the more serious offences relating to coin and Government stamps, and the counterfeiting, etc., of currency and bank notes.

*Clause 8* — It is proposed to make it clear that the obligation laid upon the officers mentioned in section 45 to communicate information regarding the occurrences specified relates to any such information as is acquired by them by personal observation as well as to information obtained by them from others. The second and fourth amendments are similar to those covered by clause 7, and furthermore, in view of the operations of professional swindlers, section 420 of the Indian Penal Code (cheating and dishonestly inducing delivery of property) is included among the offences regarding which information should be given. Thirdly, it is proposed to amend the law so as to impose upon village headmen and other officers referred to in the section the obligation of reporting the discovery of any corpse in or near a village in suspicious circumstances, at present the section only covers the occurrence of any accidental, unnatural or suspicious death in or near a village. Fifthly, as a measure of decentralization, power is conferred upon sub-divisional magistrates to appoint in the purposes of this section village headmen in villages in which no such headmen are appointed under any other law. This power is at present exercised by District Magistrates.

*Clause 9* — Following the analogy of English law, power is conferred upon private persons to arrest any person against whom a reasonable suspicion exists that he has committed a non-bailable and cognizable offence, thus extending the present section 59 of the Code, which authorises only the arrest of a person who commits a non-bailable and cognizable offence in the view of the person arresting him. Secondly, provision is made for sending the person arrested to the nearest police station in the custody of some person other than the person who effects the arrest. It is understood that in practice the agency of village watchmen, etc., is frequently utilised for this purpose.

*Clause 10* will enable summonses to be served by registered post.

*Clause 11* provides for the investigation of claims to attached property. At present the only remedy open to the third party whose property has been attached by mistake is a civil suit, which is a needlessly cumbrous procedure.

*Clause 12* renders punishable any person who without any reasonable cause refuses or neglects to attend and witness a search when called upon to do so, and provides that the neglect or refusal of any such person to sign the list of articles seized shall not affect the legality of the

search The intention is to prevent the frustration of searches by a refusal of witnesses to attend

*Clause 13*—Power is taken to bind down a person convicted of an offence *likely to cause a breach of the peace*. Secondly, it has been held that an appellate Court cannot pass an order under section 106 (3) unless the person convicted has been sentenced by a Court not inferior to that of a magistrate of the 1st class. This result does not appear to have been intended and it is proposed to remove the restriction.

*Clause 14*—It has been found that the matters covered by section 108 have been disseminated by other means than either orally or in writing, *e.g.*, by gramophone records, and the amendment meets this contingency. The second amendment is merely designed to make the intention of the legislature clearer as regards the proceedings which require sanction prior to their institution.

*Clause 15* slightly extends the offences for which security for good behaviour can be taken by including the habitual commission of the crimes of kidnapping, abduction and the uttering of counterfeit coins, currency notes or stamps.

*Clause 16* enables a magistrate in emergent cases to take *immediate* steps to preserve the public peace or for the public safety by taking security pending the detailed inquiry. Secondly, when power was taken in 1898 to bind down a person who was so desperate and dangerous as to render his being at large without security hazardous to the community, it was omitted to provide in section 117(3) that the fact of his being of such character might be proved by evidence of general repute or otherwise. This omission has now been rectified.

*Clause 17*—The amendment is designed to clear up the uncertainty which at present surrounds the circumstances in which a magistrate may refuse to accept as suitable a surety offered under Chapter VIII. It also provides for inquiry into the suitability of the surety offered, either by the magistrate making the order, or by a magistrate subordinate to him.

*Clause 18* definitely provides for the exercise of powers under section 123 by an Additional Sessions Judge in proceedings transferred to him.

*Clause 19*—The following amendments are proposed in section 133, which deals with conditional orders for the removal of nuisances—

All 1st class magistrates in place of those specially empowered have been authorised to take action when necessary.

Secondly, a magistrate is empowered to issue a conditional order under this section when in his opinion the way, river or channel, which is the subject of the unlawful obstruction or nuisance, may be lawfully used by the public. The amendment is designed to meet the difficulty which arises when the defence is set up that the way, river or channel is the private property of the objector, and that no public right exists.

Thirdly, the clause regarding noxious trades or occupations has been amplified in order to provide for cases in which it is the manner in which the trade or occupation is conducted which may be injurious to the health or physical comfort of the community.

Fourthly, provision is made for the destruction or disposal of dangerous animals.

*Clause 20*—This is consequential to the second amendment mentioned in connection with section 133, and provides that the jury in deciding whether a conditional order passed under that section is reasonable or not shall consider any objection raised as to the non-existence of a public right.

*Clause 21*—In section 145 of the Code, which deals with inquiries into disputes concerning land, etc., which are likely to cause a breach of the peace, the following changes have been made—

Firstly, it has been provided that the magistrate *may* make an order in writing, in place of the existing expression that he *shall* make an order in writing, in order to make it clear that in such cases proceedings may either be taken under section 107 or under section 145.

Secondly, power has been given to restore to possession a party forcibly and wrongfully dispossessed.

Thirdly, the magistrate has been authorised on the death of a party to make his legal representative party to the proceedings, and, if necessary, to decide who such legal representative is.

Fourthly, the magistrate has been empowered to pass necessary orders for the custody or sale of property in dispute which is subject to speedy and natural decay, or if such an order would be for the benefit of the parties.

*Clause 22*—Section 147, which deals with disputes concerning easements, etc., has been re-drafted in order to make its meaning clearer. The principal changes introduced are, firstly, that a Presidency Magistrate has been empowered to take action under the section, secondly, the definition of the subject matter in dispute has been modified so as to avoid the difficulties which have been created by decisions raising doubts as to the applicability of the section to rights not resembling easements or to rights acquired by contract, the specific

reference to rights of way has been omitted, as it has been questioned whether it might not, by implication, exclude negative easements from the scope of the section. Thirdly, the nature of the orders which a magistrate may pass and their continuance pending the order of a competent Civil Court to the contrary have been clearly defined.

*Clause 23*—The amendment is consequential to the first change mentioned above in connection with clause 22.

*Clause 24*—The amendment is intended to make it clear that the words 'police report' quoted in section 190 include reports in cognizable and non-cognizable cases. There is some conflict of judicial opinion on the point.

*Clause 25* makes it clear that the police have a discretion in arresting a person accused in a cognizable case (*vide* paragraph 155 of the Report of the Police Commission). The second amendment provides that if the Police do not investigate a complaint the complainant shall be informed to that effect.

*Clause 26* enables an investigating police officer to requisition the assistance of another police officer not below the rank of a sub-inspector in examining witnesses.

*Clause 27*—There has been some conflict of authority as regards the bearing of section 157 of the Indian Evidence Act, 1872, on section 163 of the Code, as regards the use which may be made of a statement made by any person to a police officer in the course of an investigation. The amendment provides that when such a statement or any part of it is used to impeach the credit of the witness it may also be used to corroborate his evidence. Reference may be made to the decision in *Phanindia versus the King-Emperor*, XXXVI Calcutta, 251.

*Clause 28*—Clauses (1) and (2) of section 105, which deal with searches by police officers, have been re-drafted in order to obviate the difficulties arising from the decisions of the Calcutta High Court in *Ishwar Chandra Ghosal versus the King-Emperor*, XII Calcutta Weekly Notes, 1016, and *Bajrang Gope and others versus the King-Emperor*, XV Calcutta Weekly Notes, 343. The second amendment applies the provisions of sections 102 and 103 as to searches made under warrant to searches made under section 165.

*Clause 29* gives power in certain circumstances to an officer in charge of a police station to search or cause to be searched places within the limits of another police station (*vide* paragraph 111 of the Report of the Police Commission).

*Clause 30* is consequential to the first amendment in clause 25.

*Clause 31* gives power to a police officer making an investigation to release an accused person on bail if there is not sufficient evidence against him (*vide* paragraph 156 of the Report of the Police Commission).

*Clause 32*—The first clause of section 173, dealing with reports of police officers, has been re-drafted, the principal change effected being to prescribe that the Police shall communicate the result of their investigation to the person by whom the first information was given.

*Clause 33* empowers all magistrates of the first class to hold inquests.

*Clause 34*—The amendment is of a verbal character eliminating the word 'stealing,' which is at present in use, and substituting the word 'theft.'

*Clause 35*—This amendment should be read with that effected by clause 128.

*Clause 36*—Section 195, which prescribes the sanction required in order to enable a Court to take cognizance in certain cases, has given rise to constant difficulty. It has accordingly been re-drafted, and the following are the principal changes proposed. Firstly, it is directed that the sanction shall not be granted unless the authority granting it is satisfied that there are reasonable grounds for believing that the offence in respect of which it is sought has been committed. Also that it shall specify the offence committed. Secondly, it is made clear that when an appeal lies against an order of sanction, the decision of the appellate authority is final. Thirdly, the period within which action must be taken in respect of sanction has been reduced from six months to two, as it is thought that if a prosecution is intended it should be instituted promptly. Fourthly, power has been conferred to institute fresh proceedings to obtain sanction if a previous sanction in respect of the same offence has been set aside on technical grounds. Fifthly, it is enacted that sanction may be given, notwithstanding the fact that an appeal has been preferred against the sentence, judgment or order of the Court in which the offence was committed. The final disposal of the case by the appellate authority may be long delayed, and it is undesirable to delay criminal proceedings for a like period. Sixthly, it is directed that no sanction should be given on complaint made under section 211 of the Indian Penal Code until the criminal proceedings in respect of which the offence is alleged to have been committed have been finally disposed of and until the person whom it is sought to prosecute has had an opportunity of showing cause. Some of these points are at present covered by rulings, but it is thought desirable to insert them in the Code.

*Clause 37*—At present no Court can take cognizance of any offence specified in section 196 unless upon complaint made with the authority of the Governor General in Council, the local Government, or some officer empowered by the Governor General in Council in this behalf. The preliminary investigation of these cases is hampered by this restriction, and it is proposed to substitute that no Court shall proceed to the trial of these offences unless the

prosecution has been sanctioned by the authority aforesaid. The safeguard of preliminary sanction will thus be maintained before the actual trial is held.

*Clause 38*—Under section 197, when any judge or public servant is accused *as such judge or public servant of any offence* no Court shall take cognizance of such offence except with previous sanction. It is proposed to amplify the words italicised with the object of rendering the section clear, reverting rather to the wording of the Code of 1872.

*Clause 39* provides for the making of a complaint with reference to the offences specified in section 198 when the person aggrieved is a minor or lunatic.

*Clause 40* provides similarly for the making of a complaint in respect of the offences specified in section 199 when the husband of the woman is a minor or a lunatic.

*Clause 41* allows discretion to a magistrate to take cognizance of a written complaint by a public servant acting, or purporting to act, in the execution of his official duties without examining the complainant on oath, thus avoiding possible inconvenience in some cases.

*Clause 42*—Section 202, which deals with the postponement of issue of process, has been re-drafted and the following are the principal changes introduced—

Third class magistrates have been given power to make preliminary inquiries personally.

Secondly, authority to make a preliminary inquiry has been given in any case in which the magistrate thinks fit for reasons to be recorded in writing. The only ground contemplated by the present section is if the magistrate is not satisfied as to the truth of the complaint. That is thought to be undesirably narrow.

Thirdly, the words 'inquiry or investigation' have been substituted for the expression 'previous local investigation,' which at present the magistrate is empowered to order and power is given to take evidence upon oath in the case of such a preliminary inquiry.

Fourthly, Presidency Magistrates are enabled to act under this section without special authorisation.

*Clause 43*.—The amendment is consequential to the changes effected by clause 42.

*Clauses 44, 45 and 46*—The amendments are intended to explain more clearly what are the 'sufficient grounds' which would justify the commitment of an accused person for trial at the Sessions.

*Clauses 47 and 65*—Under section 219 power is given to examine supplementary witnesses after the commitment to the Session and before the commencement of the Session's trial, while under section 240 a Court has wide powers to summon any witness. In order that use should be made of the latter section more particularly for the summoning of witnesses desired by the Court rather than the parties, it is thought desirable to provide more clearly for the examination during the Sessions trial of witnesses whose evidence has not been recorded by the committing magistrate, and this is sought to be effected by amendments to sections 219 and 286, under which it will be possible for the prosecution to tender any witness at the Sessions, provided that his statement has been recorded by any magistrate, and that a copy of it had been given to the accused not less than 24 hours before the witness is produced at the trial.

*Clause 48*—There is some doubt whether under section 221 it is permissible to prove a previous conviction if the enhanced punishment which it is sought to award is not beyond the competence of the Court, and the amendment directs that in such a case evidence of the previous conviction may be given.

*Clause 49*—An illustration is added to section 234 with the object of making it clear that offences of the same kind may be tried together in accordance with this section, even if they were committed against different persons.

*Clauses 50 and 51*—These clauses remove clause (2) of section 237 to section 238, in which it may be more appropriately placed, and re-enact it with the addition that a conviction for an abetment of an offence is also permissible although the abetment is not separately charged.

*Clause 52*—The following amendments are proposed in section 239 which defines what persons may be charged jointly. It is provided that when two or more persons are accused of offences of the same kind committed by them jointly during the space of one year they may be tried for the same at one trial. Secondly, it is directed that when one person is accused of any offence which includes theft, extortion or criminal misappropriation and another of receiving, retaining or disposing of the stolen property they may be tried jointly. Thirdly, provision is made for the joint trial of one person accused of counterfeiting coin and another of fraudulently possessing or uttering it.

*Clause 53*—This gives a magistrate a discretion, which he does not now possess, as to convicting an accused who pleads guilty in a summons case, and the Court is thus able to refuse to accept a plea of guilty which it believes to be untrue.

*Clause 54* confers upon a magistrate in a summons case a discretion to refuse to issue further processes to secure the attendance of a witness to whom it has already issued a summons. It has been held that no such discretion at present exists.



*Clause 55.*—The amendment is practically one of drafting

*Clause 56*—In section 250, which enables compensation to be awarded in frivolous or vexatious accusations, the following changes are contemplated. For the purpose of recovery and imprisonment in default of payment, the compensation will be treated in all respects as a fine. Secondly, the procedure in awarding compensation has been more clearly laid down, by directing that a magistrate in his order of discharge or acquittal may call upon the complainant to show cause why he should not pay compensation, and that he shall then consider and record any cause shown and pass such order as he sees fit. As the section is now worded the order to pay compensation is put off the order of discharge or acquittal, and the record and consideration of objections is to precede such order. The procedure now proposed is more logical.

*Clause 57* requires an accused to state whether he wishes to cross-examine any witness for the prosecution immediately after a refusal or omission to plead or a claim to be tried. The object of the amendment is to require the accused to exercise his right at once at this stage and refrain from postponing cross-examination vexatiously.

*Clause 58* is an amendment in drafting.

*Clause 59* confers a discretion on the magistrate to discharge the accused if the complainant is absent and the offence is not cognizable.

*Clause 60* makes offences under sections 223, 225-A and 509 of the Indian Penal Code triable in a summary manner.

*Clause 61*—Benches of magistrates exercising 2nd or 3rd class powers have been authorised to try summarily offences under section 504 of the Indian Penal Code, or against laws other than the Penal Code if punishable only with fine or with imprisonment for a term not exceeding one month.

*Clause 62*—At the instance of the local Governments concerned the towns of Allahabad and Rangoon have been included among those in which the trial of certain offences is by special jury.

*Clause 63*—Section 282 mentions three contingencies in which a new jury may be added or the jury shall be discharged and a new jury chosen. These are not however exhaustive and the above procedure is permitted in addition if, for any other sufficient cause, the Judge thinks it to be necessary, following, in this respect, the principle of the English law.

*Clause 64* effects a similar amendment to clause 63 as regards assessors.

*Clause 65* requires any witness whose evidence was recorded by the committing magistrate, but who is not examined at the Sessions trial, to be tendered for cross-examination. It is thought that the accused may reasonably claim that this should be done.

*Clause 66* defines more clearly the use which may be made at the Sessions trial of the evidence of a witness duly taken in the presence of the accused before the committing magistrate.

*Clause 67*—There have been conflicting rulings as to the circumstances in which the prosecution is entitled to reply, and the amendment seeks to define these more clearly.

*Clause 68* is a drafting amendment.

*Clause 69* prescribes that when a judge accepts the verdict of the jury in respect of some of the accused but not of others, he need only refer the case of the latter to the High Court.

*Clause 70* assimilates the procedure by which assessors give their opinion to that adopted for ascertaining the verdict of a jury, namely, by question and answer, to be recorded.

*Clause 71*—Section 310, which deals with the procedure in the case of a trial by a jury or with the aid of assessors when a previous conviction has to be proved, has been recast in order to avoid the inconvenience which may at present arise in cases tried by assessors (whose opinion is not binding on the judge) and in cases in which a judge decides to make a reference to the High Court under section 307. Under the amendment if a jury delivers a verdict of not guilty on the charge of the subsequent offence for which the accused is primarily being tried, or in any trial held with the aid of assessors, the Court is given a discretion to proceed or refrain from proceeding with the trial of the accused on the charge of the previous conviction.

*Clause 72*—In place of the present maximum of 400 special jurors fixed by section 312, it is left to the High Court to prescribe the number, thus ensuring greater elasticity.

*Clause 73*—Similarly, as regards the number of jurors to be summoned in Presidency towns, the rigid minimum limits fixed in section 315 have been omitted, and the town of Rangoon has been added to the Presidency towns to which that section now applies.

*Clause 74*—The amendment is one of drafting.

*Clause 75*—Section 337 restricts the power to tender a pardon to an accomplice to offences triable exclusively by the Court of Session or High Court. This restriction has been removed by the omission of the word 'exclusively,' but at the same time it is enacted that all cases in which it is proposed to utilise the provisions of this section should be tried either by the Court of Session or by a District Magistrate empowered under section 30 (*Cf* paragraph 150 of the Report of the Police Commission). Under sub-section (3) an approver *if not on bail* shall be detained in custody until the termination of the trial. In order to render the intention of the section clearer, the words 'unless he is already on bail' are substituted for the words in italics.

*Clause 76*—There has been considerable diversity of rulings as to what (if any) authority should withdraw a pardon, tendered on breach of the conditions attached to it, with a view to the prosecution of the approver, and the amendment directs that this authority should be either the District Magistrate or the magistrate by whom such pardon is tendered. The Court of Session or High Court is at the same time authorised to detain an approver in custody for a period not exceeding 14 days pending an application for the grant of sanction to prosecute, and it is provided specifically that when tried for the offence in respect of which the pardon was tendered, the approver shall be entitled to plead that he has complied with the conditions upon which the tender was made.

*Clause 77*.—The expression 'person accused' in section 340 may be read as referring only to persons accused of any offence, it is proposed to make it clear that any person against whom proceedings under the Code are instituted is entitled to be defended by a pleader. It is also laid down that persons against whom proceedings under Chapters X, XI, XII, XXXVI or under section 552 of the Code are pending do not labour under the ordinary disability of an accused person to be sworn, and that they may be examined as witnesses in such proceedings.

*Clause 78*—Offences under sections 343, 346, 357, 417, 451 (first part), 494 and 509 of the Indian Penal Code are added to the list of offences compoundable with the permission of the Court, also any offence which is not punishable with death or transportation or imprisonment for a period exceeding six months, provided that cognizance of such an offence has been taken upon complaint. It is thought that in these minor offences composition may safely be allowed subject to the restrictions referred to above.

Secondly the permission of the Court is required to the compounding of a case on behalf of a minor, idiot or lunatic by any person lawfully entitled to the care and custody of his person or property.

*Clause 79* is designed to bring section 347 into line with section 208.

*Clause 80* provides that when any person is committed to the Court of Session or High Court under section 348, another person accused jointly whom the magistrate believes to be guilty, shall be similarly committed. Identical treatment will thus be accorded to all the accused.

*Clause 81* is of similar effect to clause 80 in the case of action being taken under section 349 (1).

*Clause 82*—There has been some difference of opinion as to the position when cases are transferred from one magistrate to another otherwise than from a predecessor to a successor in office. The amendment provides that the magistrate from whom the case is transferred shall be deemed to cease to have jurisdiction within the meaning of this section.

*Clause 83*—At present it is believed that section 360, which requires the Court to read over the evidence of each witness to him in the presence of the accused or his pleader, is not always observed in practice and occasions unnecessary inconvenience. The amendment provides accordingly for a witness reading over his deposition himself, and further that the deposition need only be read in the presence of the accused if the accused so desires.

*Clause 84* is intended to remove the uncertainty which at present exists regarding the duties of a Presidency Magistrate in recording evidence and framing a charge in petty cases. It is further provided that when sentences in excess of one are passed, which are ordered to run concurrently, it is the heaviest sentence which determines the applicability of section 362.

*Clause 85* makes it obligatory on Chartered High Courts and Chief Courts to prescribe the manner in which evidence should be taken down in cases coming before them.

*Clause 86* provides for the dictating of judgment with the safeguard that each page of a judgment transcribed from dictation should be signed by the presiding officer.

*Clauses 87 and 88* make immoveable property as well as moveable property liable to sale, as it is not thought reasonable that immoveable property should be allowed to escape, and at the same time power is given to the local Government to make rules regarding the execution of warrants and the determination of claims.

*Clause 89* allows time to be given for the payment of the fine without the issue of a warrant.

*Clause 90* enables a sentence of fine to be awarded in lieu of a sentence of whipping which cannot be carried out.

*Clause 107* is consequential to the amendment of section 466

*Clause 108* enables a Court, on the application of any relative or friend of the accused, to order the latter to be delivered to him on the terms and conditions mentioned in section 475 (1), if the accused is acquitted on the ground of unsoundness of mind

*Clause 109* delegates from the local Government to the Court the power to pass orders regarding lunatics confined under section 466 or section 471 if the Inspector General of Prisons or visitors of an asylum have certified that such person can be discharged without risk

*Clause 110* delegates to the Court the powers of a local Government to order the delivery of a lunatic to a relative or friend subject to the furnishing of a security, and simplifies the procedure under which a person accused of an offence, whose trial has been postponed by reason of his unsoundness of mind, is again produced before the Court on the certificate of the inspecting officer as to his recovery

*Clause 111* enables cases under section 476 arising in presidency towns to be sent to salaried Presidency Magistrates for inquiry or trial. The second amendment is purely consequential.

*Clause 112*—Section 488, relating to the passing of orders for the maintenance of neglected wives and children, has been amended in the following particulars. The maximum amount payable for maintenance has been raised from rupees fifty to rupees one hundred per mensem. Secondly, in default of payment of maintenance a Court is authorised to impose a sentence of six months' imprisonment in lieu of the existing limit of one month's imprisonment for each month's allowance unpaid in whole or part. Thirdly, a limit of one year from the date of default has been imposed within which a warrant for the realization of maintenance due must be applied for. Fourthly, the word 'wilfully,' which now qualifies the neglect to comply with an order, has been omitted, owing to the difficulties which have arisen in its interpretation. Fifthly, the words 'commits adultery' have been substituted for the words 'is living in adultery,' and a woman who has been guilty of adultery before the order is obtained is precluded from obtaining an order for maintenance. An order for maintenance may also be cancelled if it is proved that the woman commits adultery after it has been passed. Finally, for the word 'accused,' which is inappropriate in this section, the words 'person against whom proceedings are taken' have been substituted.

*Clause 113*—This is consequential to the first amendment in section 488

*Clause 114*—This includes the Indian Extradition Act, 1903, among the enactments to which nothing in section 491, which gives power to issue directions of the nature of a *habeas corpus*, applies, thus fulfilling the intention of the legislature when the Extradition Act was passed

*Clause 115* enables the District Magistrate or, subject to his control, a Sub-Divisional Magistrate to appoint any person other than a police officer below a certain rank to act as public prosecutor in the absence of that officer in any case, instead of as at present in the Sessions Court only, as the necessity of such action may equally well arise in other instances. Secondly, in defining the status of the person who may be thus selected the words 'not being an officer of police below the rank of District Superintendent as defined in the Police Act, 1861,' have been substituted for the words 'not being an officer of police below the rank of Assistant District Superintendent', thus covering any person to whom the local Government thinks fit to give the powers of a District Superintendent

*Clause 116* makes it clear that a public prosecutor may withdraw one only of several charges against an accused person

*Clause 117* provides for the grant of bail in any case at the discretion of the Court, for reasons to be recorded, if the accused is a minor, female or sick or infirm person

*Clause 118* enables a Chief Presidency Magistrate to delegate to a subordinate Presidency Magistrate his powers and duties under any commission issued in his name

*Clause 119* is consequential to the amendment effected by clause 118.

*Clause 120*—There has been a conflict of opinion whether a judgment convicting the principal in a bond taken under the Code and ordering the forfeiture of the bond is sufficient *prima facie* proof in proceedings under this section against the sureties. The amendment permits the use of such a judgment as evidence in such proceedings, and directs that the Court shall presume that such offence was committed unless the contrary is proved

*Clause 121* provides for the taking of fresh security in the event of the death of a surety to the original bond or the forfeiture of the bond under section 514

*Clause 122* inserts a new section enabling a Court to make such orders as it thinks fit for the proper custody or disposal of property produced before it during the pendency of any inquiry or trial

*Clause 123* effects the following amendments in section 517. It elucidates the order for the disposal of a property produced before it which a Court may pass by explaining that this means disposal by destruction, confiscation, restoration to the person claiming to be entitled to the possession thereof or otherwise. Secondly, it is made clear that when an order is passed by a Court, which is appealable, the property shall not ordinarily be disposed of until the time for presenting an appeal is passed, or until such appeal has been disposed of, except

when the property is subject to speedy and natural decay. Thirdly, the Court is enabled, if it sees fit, to restore the property to the possession of any person claiming to be entitled to it who is willing to execute a bond for its return if need be.

*Clause 124*—In section 522, which permits a Court to order a person to be restored to the possession of immovable property from which he has been ousted by force, it is provided that such an order can be made at any time within six months of the date of conviction. Secondly, the section has been extended to cover cases in which a man is ousted from possession by a show of criminal force or criminal intimidation. Thirdly, power is given to an Appellate Court or to a High Court in revision to pass such an order.

*Clause 125*—In order to prevent the accumulation of trivial and other unidentifiable articles, power is given to a Court to direct the disposal of them.

*Clause 126*—Section 526 of the Code has been amended in order to make it clear that the powers of a High Court to transfer criminal cases extend to the transfer of miscellaneous proceedings under the Code, secondly, in order to render clearer the intention of the legislature with regard to the postponement of cases in order that application may be made for their transfer to another tribunal, it is definitely laid down that the Court is required to adjourn for this purpose only before the party proceeded against in the case is called on to enter upon his defence or before the appeal is heard. A further restriction has been added in the case of a Sessions trial prescribing that when the accused has been committed not less than ten days before the trial, the judge shall not be required to adjourn unless the accused has given at least seven days' notice in writing of his intention to make such an application. The calendars of Sessions Courts, involving the convenience of jurors, assessors and parties, are peculiarly liable to be upset by the postponement of cases.

*Clause 127*—The amendment is similar to that first mentioned in connection with section 526.

*Clause 128* makes it clear that a Chief Presidency or District Magistrate may, by general or special orders, empower any subordinate magistrate to transfer for inquiry or trial any case of which he or any other magistrate subordinate to such Chief Presidency or District Magistrate has taken cognizance to any other such magistrate, and to withdraw or recall any cases so made over and to try and inquire into them himself. It is, however, provided that outside the Presidency towns powers under this section may be delegated only to magistrates of the first class. The second amendment refers, in sub-section 4, to Madras Regulation XI of 1816, which had apparently been omitted by oversight.

*Clause 129* directs that the want of, or any irregularity in, any sanction required by sections 196 and 196-A of the Code does not render a sentence or order liable to modification on appeal or revision.

*Clause 130*—A new section is inserted which is intended to discourage the making of false and scandalous statements in petitions filed before the Courts, if such petitions seek to impugn the action of subordinate authorities. Further, a new section is inserted definitely prescribing that any judge or magistrate may at any stage of any inquiry or trial visit and inspect any place connected with the occurrence, subject to his recording a note of his inspection, of which a copy shall on his application be supplied to the accused.

*Clause 131*—The new section proposed is designed to meet a practical difficulty which is occasionally experienced in trials involving a large number of accused persons, when one or more of them become incapable of remaining at the bar.

*Clause 132* dispenses with the previous sanction of the Governor General in Council to any rules made by a local Government requiring the payment of the reasonable expenses of complainants and witnesses.

*Clause 133* makes it clear that compensation under section 545 may be paid to any person by whom it would be recoverable in a civil court. Further, the payment of compensation to an innocent purchaser of stolen property is provided for, when the property is restored to the possession of the person entitled thereto.

*Clause 134* practically embodies the provisions of section 31 of the Court Fees Act in the Code in order that greater prominence may be given to them.

*Clause 135* provides for the powers of judges and magistrates being exercised by their successors in office, and for the determination by a Chief Presidency or District Magistrate of the person to be deemed the successor in office of a subordinate magistrate in cases of doubt.

*Clause 136* refers to the powers of Courts to make such orders as may be necessary to give effect to any order under the Code or to prevent abuse of the process of the Court.

*Clause 137* extends the list of offences on conviction for which a person may be released upon probation instead of being sentenced to punishment. Secondly, it is made clear that section 562 does not merely apply to the cases of youthful offenders. Thirdly, the word 'trivial' has been omitted before the words 'nature of the offence' to which the Court may have regard before exercising its discretion. Fourthly, the period for which an offender may be released under this section has been extended from one to three years. Fifthly, in the case of a minor, provision has been made that a bond for good behaviour shall be executed by a surety only. Sixthly, power has been conferred upon an Appellate Court or upon a High Court in the exercise of its revisional jurisdiction to make an order under section 562. And

finally, a High Court has been empowered, either on appeal or revision, to inflict sentence of imprisonment in lieu of an order made under this section. This power is taken in consequence of the extension which will be given to the section by the above amendments.

*Clause 138* extends the list of offences after a conviction for which a person may be required under section 565 to notify his residence and subsequent changes of residence. Secondly, on the analogy of section 75 of the Indian Penal Code, as amended in 1910, provision has been made for previous convictions before tribunals of Native States which exercise their jurisdiction under the general or special authority of the Government of India or of the local Government. Thirdly, all first class magistrates, in place of those specially empowered, have been authorised to pass orders under section 565. Fourthly, the punishment for a breach of the rules made under the section has been enhanced. Fifthly, the rule-making power has been extended to cover the provisions of the section relating to the notification of residence, or change of residence, or absence from residence of released convicts. Finally, Courts of Appeal or Revision have been empowered to pass orders under this section.

*Clause 139*.—Apart from minor matters of drafting the following noticeable amendments are effected in Schedule II. Offences under sections 341 and 374 of the Indian Penal Code are made non-cognizable. Secondly, offences under sections 213 and 215 of the Indian Penal Code are made cognizable. Thirdly, offences under sections 403 and 451 of the Indian Penal Code are made compoundable; in the latter instance only if the offence to be committed is not theft. Fourthly, cases under section 294 of the Indian Penal Code are made triable by any magistrate. Fifthly, cases under sections 317, 368 and 395 of the Indian Penal Code, which are at present triable by a Court of Session only, are made triable by a Court of Session, Presidency Magistrate or magistrate of the first class.

*Clauses 140 and 141*.—The amendments in Schedules III and IV are consequential to those already explained.

*Clause 142* makes certain amendments in the forms referred to in Schedule V, of which the chief is in order to clear up an apparent inconsistency between the wording of section 88 and that of Form VI. The other amendments proposed are consequential to others which have been already explained.

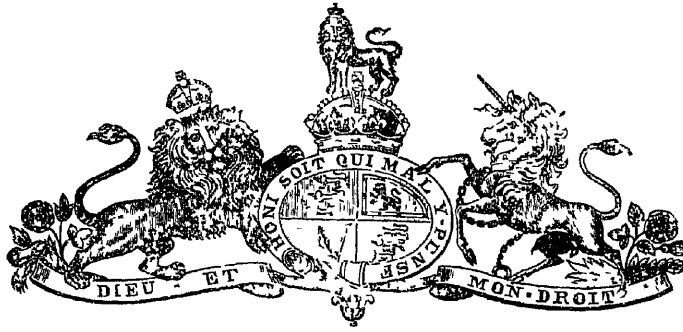
*Clause 143* repeals section 31 of the Court Fees Act in consequence of the amendments proposed in clause 134.

R. H. CRADDOCK.

*The 16th March 1914.*

W. H. VINCENT,

*Secretary to the Government of India.*



# The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 12, 1914.

Separate paging is given to this Part in order that it may be filed as a separate compilation

## PART V

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 8th September, 1914 —

No. 4 of 1914

*A Bill further to amend the Sea Customs Act, 1878*

WHEREAS it is expedient further to amend the **VIII of 1878.** Sea Customs Act, 1878, It is hereby enacted as follows —

1. This Act may be called the Sea Customs Short title (Amendment) Act, 1914.

**VIII of 1878.** 2. In section 19 of the Sea Customs Act, 1878 (hereinafter called the said Act), for the words "or any specified part of British India" the following shall be substituted, namely, "or any specified part thereof, either generally or from or to any specified country, region, port or place beyond the limits of British India".

3. To section 38 of the said Act the following Amendment of section 38, proviso shall be added, Act VIII, 1878. namely —

"Provided that where the shipment of any goods is permitted without a shipping bill, or in anticipation of the delivery of a shipping bill, the rate of duty and tariff valuation, if any, applicable shall be the rate and valuation in force at the time

4 In clause (b) of section 49 of the said Act after the word "goods" the words "or any specified goods or class of goods" shall be inserted, and the words "in India" are repealed

5 (1) In section 137 of the said Act the following words are repealed, Amendment of section 137, Act VIII, 1878 namely —

"Unless the Chief Customs officer shall, in the case of any customs-port or wharf, or of any class of goods, otherwise direct by notification in the local official Gazette."

(2) To the same section the following proviso shall be added, namely —

"Provided that the Chief Customs-officer may, in the case of any customs-port or wharf, by notification in the local official Gazette, and subject to such restrictions and conditions, if any, as he thinks fit, exempt goods or any specified goods or class of goods or any specified person or class of persons, from all or any of the provisions of this section."

6 In section 155 of the said Act, for the first paragraph shall be substituted the following, Amendment of section 155, Act VIII, 1878. namely —

"When by any law for the time being in force, a special duty is imposed on denatured spirit, the Local Government may make rules for ascertaining and determining what spirit imported into British India shall be deemed to be denatured spirit for the purposes of such law, and for causing such spirit to be denatured, if necessary, by its own officers, at the expense of the person importing the same before the customs duties leviable

## STATEMENT OF OBJECTS AND REASONS.

In April, 1913, it was represented to the Government of India that it would be desirable on administrative grounds to amend section 137 of the Sea Customs Act, 1878, so as to permit the adoption of a more convenient procedure for the shipment of goods. Under that section a shipping bill must ordinarily be presented to and passed by the Customs Collector, and all duties leviable must be paid, before goods can be shipped. As this procedure frequently causes delay and inconvenience to shippers, it has been decided to empower the Chief Customs Officer to permit the shipment of goods in such cases, and subject to such conditions, as he considers desirable, in anticipation of the delivery of the bill and the payment of any customs duty and other charges that may be due. The adoption of this procedure involves the amendment of section 38 of the Act which prescribes the rate of duty or tariff valuation that shall apply in cases in which the rate or valuation is altered prior to shipment. It is proposed to enact in that section that in the case of goods allowed to be shipped without a shipping bill, or in anticipation of the delivery of a shipping bill, the rate of duty and valuation shall be the rate and valuation in force when the goods are shipped.

2. Section 19 of the Act empowers the Governor General in Council to prohibit the importation or exportation of goods of a specified description from or to all countries, but it does not authorise the Government of India to prohibit or restrict the importation or exportation of goods of a specified description from or to one country and no other. The limited scope of the section has been found in practice to cause inconvenience. It is therefore proposed to amend it so as to authorise the Government of India to prohibit the importation or exportation of any specified description of goods either generally or from or to any country, region, port or place beyond the limits of British India.

3. Similarly, under section 49 (b) of the Act, the payment of drawback may be prohibited only in the case of all goods exported to a specified foreign port in India; the power cannot be exercised in respect of any particular class of goods. It is proposed to take power to prohibit the payment of drawback on any specified goods or class of goods exported to any specified foreign port whether in India or not.

4. It is also proposed to make formal amendments to the first paragraph of section 155 of the Act which confers on Local Governments the power to make rules for the denaturation of imported spirits. As the section stands at present, it provides for the treatment of spirit with a view to render it effectually and permanently unfit for human consumption. As, however, no denaturing agent is known the effects of which it would not be possible partly or wholly to remove by skilled treatment, it is proposed to refer in the section to 'denatured spirit' only without prescribing that such spirit shall have been effectually and permanently denatured.

R. W. GILLIAN.

*The 15th August, 1914.*

W. H. VINCENT,

*Secretary to the Government of India.*

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 8th September, 1914 :—

No. 5 OF 1914.

*A Bill to amend the Indian Life Assurance Companies Act, 1912.*

WHEREAS it is expedient to amend the Indian VI of 1912, Life Assurance Companies Act, 1912; It is hereby

enacted as follows :—

1. This Act may be called the Indian Life Assurance Companies (Amendment) Act, 1914.  
Short title.

2. In section 4 (1) of the Indian Life Assurance Companies Act, 1912, VI of 1912, Amendment of section 4(1) and Third Schedule, and in the forms of Balance Sheet (A) and (B) set forth in the Third Schedule to the Act, for the words "Comptroller General" the words "Controller of Currency" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

UNDER section 4(1) of the Indian Life Assurance Companies Act, 1912, (VI of 1912) the Comptroller General has the custody of Government Securities deposited by Life Assurance Companies. It has been decided that the Controller of Currency shall perform all work, in connection with Government Securities, previously entrusted to the Comptroller General, and it is necessary, therefore, to substitute the words—"Controller of Currency" for the words "Comptroller General" in this section and in the forms of Balance Sheet (A) and (B) set forth in the Third Schedule.

2. The object of the Bill is to make the necessary change.

R. W. GILLAN.

*The 28th May, 1914.*

W. H. VINCENT,  
*Secretary to the Government of India.*



GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 8th September, 1914 :—

NO. 6 OF 1914.

*A Bill further to amend the Indian Telegraph Act, 1885, and the Indian Post Office Act, 1898.*

WHEREAS in view of the amalgamation of the offices of Director-General of Telegraphs and of Director-General of the Post Office of India, it is expedient further to amend the Indian Telegraph Act, 1885, and the Indian Post Office Act, 1898 ; It is hereby enacted as follows :—

1. This Act may be called  
the Indian Post Office and  
Telegraph (Amendment) Act, 1914.

Short title.

2. In clause (c) of section 3 and in section 29A of the Indian Telegraph Act, 1885, for the word "Telegraphs", wherever it occurs, the words "Posts and Telegraphs" shall be substituted.

3. In section 2 of the Indian Post Office Act, VI of 1898. Amendment of section 2 of Act VI of 1898.—

(i) in clause (a), for the words "the Post Office of India" the words "Posts and Telegraphs" shall be substituted ; and

(ii) in clause (k), after the word "department", the words "established for the purpose of carrying the provisions of this Act into effect and" shall be inserted.

### STATEMENT OF OBJECTS AND REASONS.

In section 3 (c) of the Indian Telegraph Act, 1885 (XIII of 1885), the words "telegraph authority" are defined as meaning the Director-General of Telegraphs, and in section 2 (a) of the Indian Post Office Act, 1898 (VI of 1898), the expression "Director-General" means the Director-General of the Post Office of India. With effect from the 1st April, 1914, the Postal and Telegraph Services in India have been amalgamated and placed under one head, who is designated the Director-General of Posts and Telegraphs, and the separate appointments of Director-General of Telegraphs and Director-General of the Post Office of India have ceased to exist. The Bill accordingly provides for the modification of the definitions of "telegraph authority" and "Director-General" as at present given in the Acts, so as to indicate that both the expressions apply to the head of the combined services. For the same reason it is necessary to alter the title "Director-General of Telegraphs", wherever it occurs in section 29A of the Indian Telegraph Act of 1885, as amended by the Indian Telegraph (Amendment) Act, 1914; and this has been provided for in the Bill.

The fact that the Post Office and the Telegraph Department are now under the administrative control of a single officer has also necessitated the amplification of the definition of the expression "the Post Office" given in section 2 (k) of the Indian Post Office Act, 1898 ; and clause 3 (ii) of the Bill provides for this.

R. W. GILLAN.

*The 11th August, 1914.*

W. H. VINCENT,

*Secretary to the Government of India.*

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 8th September, 1914 —

## No. 7 of 1914.

*A Bill to amend the Indian Army Act, 1911.*

VIII of 1911. WHEREAS it is expedient to amend the Indian Army Act, 1911, It is hereby enacted as follows —

1 This Act may be called the Indian Army (Amendment) Act, 1914  
Short title

VIII of 1911. 2. For section 114 of the Indian Army Act, 1911, the following section shall be substituted, namely:—  
Substitution of new section 114, Act VIII of 1911

“114 The following rules are enacted respecting the disposal of the property of deceased persons and deserters of every person subject to this Act who dies or deserts:—

(1) The commanding officer of the corps, detachment or department to which the deceased person or deserter belonged shall secure all the moveable property belonging to the deceased or deserter that is in camp or quarters, and cause an inventory thereof to be made, and draw any pay and allowances due to such person.

(2) In the case of a deceased person who has left in a Government savings bank (including any post office savings bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper officer of the bank to pay

the deposit to him forthwith, notwithstanding anything in any departmental rules, and, after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided

(3) In the case of a deceased person whose representative is on the spot and has given security for the payment of the regimental or other debts in camp or quarters (if any) of the deceased, the commanding officer shall deliver over any property received under clauses (1) and (2) to that representative

(4) In the case of a deceased person whose estate is not dealt with under clause (3), and in the case of any deserter, the commanding officer shall cause the moveable property to be sold by public auction, and shall pay the regimental and other debts in camp or quarters (if any), and, in the case of a deceased person, the expenses of his funeral ceremonies, from the proceeds of the sale and from any pay and allowances drawn under clause (1) and from the amount of the deposit (if any) received under clause (2).

(5) The surplus, if any, shall, in the case of a deceased person, be paid to his representative (if any), or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed person

(6) In the case of a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to His Majesty, unless the deserter shall in the meantime have surrendered or been apprehended

*Explanation.*—A person shall be deemed to be a deserter within the meaning of this section who has without authority been absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended.”

## STATEMENT OF OBJECTS AND REASONS.

WHEN the Indian Army Bill was drafted, Articles 176 and 178 of the Indian Articles of War were transferred bodily to it as clause 114 with a few verbal alterations only and were passed into law

The provisions of section 114 of the Indian Army Act have been found to be defective, in that, while providing for the drawing by the Commanding Officer of any pay and allowances due to a deceased person or deserter, they do not fully and specifically provide for the disposal of the sum so drawn.

The present draft remedies the defect and further provides, on the lines of the English law on the subject, for the forfeiture to His Majesty of the balance of a deserter's effects on the expiration of three years from the date of desertion unless the man has in the meantime surrendered or been apprehended

No special provisions is required for the disposal of the effects of a man who is convicted of desertion, for, if on conviction he is removed from the service his estate is settled up like that of any other man who is discharged, while, if he is retained in the service, his estate does not need to be settled up at all. The opportunity is therefore taken to amend the “Explanation” to section 114 accordingly

BEAUCHAMP DUFF, General,  
Commander-in-Chief in India.

The 25th August, 1914.

W. H. VINCENT,  
Secretary to the Government of India.

## GOVERNMENT OF INDIA

## LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations of the 8th September, 1914 —

## No 8 OF 1914

*A Bill to amend the Indian Airships Act, 1911*

WHEREAS it is expedient to amend the Indian Airships Act, 1911; It is hereby enacted as follows —

1. This Act may be called the Indian Aircraft Bill. (Amendment) Act, 1914

2 In the Indian Airships Act, 1911 (hereinafter called the said Act), "aircraft" for the words "airship", "airship" and "airships" and "airships", wherever they occur, there shall be substituted the word "aircraft"

3. For section 7 of the said Act, the following Amendment of section 7, sections shall be substituted, namely —

"7. (1) The Governor General in Council Prohibition and regulation may, by notification in of navigation of aircraft. the *Gazette of India*, prohibit or regulate the navigation of aircraft over, or the entry of aircraft by flight into, British India or any part thereof, including the territorial waters adjacent thereto

(2) Subject to the control of the Governor General in Council the Local Government of a province may, by notification in the local official Gazette, exercise in respect of the province the like powers of prohibiting or regulating navigation as are

conferred by sub-section (1) on the Governor General in Council

(3) Any notification issued under sub-section (1) or (2) may apply either to all aircraft or to any specified class or description of aircraft, and may prohibit navigation or entry as aforesaid, as the case may be, either at all times or at specified times or on specified occasions, and either absolutely or subject to specified exceptions or conditions, and such conditions may, without prejudice to the generality of the foregoing provision, require any aircraft—

- (a) to display specified signals or marks,
- (b) to comply with specified signals in a specified manner,
- (c) to land within a specified area or at a specified place, and
- (d) in the case of aircraft entering British India by flight, also to enter at a specified place.

"7A (1) Whenever an aircraft contravenes the Compliance with signals conditions of a notification issued under section 7 requiring it to comply with specified signals in a specified manner, any person appointed in this behalf by the Governor General in Council may fire at or into such aircraft, and use any and every other means necessary to compel compliance.

(2) The Governor General in Council may delegate to any authority the power of making appointments under sub-section (1)"

4 For clause 5 of section 8 of the said Act, Amendment of section the following clause shall 8 (5), Act XVII, 1911 be substituted, namely —

"(5) a notification issued under section 7, does or abstains from doing any act, unless, in the case of contravening a condition relating to navigation or landing, he proves that he was compelled thereto by stress of weather or other circumstances over which he had no control."

## STATEMENT OF OBJECTS AND REASONS

The Bill proposes to amend the Indian Airships Act, 1911 (XVII of 1911), so as to bring it into conformity with certain provisions of the English Aerial Navigation Act, 1913. The Indian Airships Act, 1911, which confers certain powers for ensuring the safety of the realm, aims mainly at controlling the use of airships once they have been imported in the first place as freight. It contains no direct provisions regulating the entry of aircraft into British India by flight over-land or over-sea since the possibility of such flights was not contemplated when it was passed. In view, however, of the rapid developments of the science of flying, it is now considered necessary, on military grounds, to take power to prohibit the passage by flight of any aircraft into this country, except subject to conditions to be imposed by the Governor General in Council, which may cover directions to enter or land at a particular point, and to observe and display specified signals or marks. The Bill follows generally the lines of sections 1 and 2 of the English Aerial Navigation Act, 1913. The opportunity has also been taken to substitute the term "aircraft" for "airship".

R. H. CRADDOCK

*The 26th August, 1914.*

W. H. VINCENT,  
Secretary to the Government of India,

**GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.**

The following Bill was introduced in the Council of the Governor General of India for the purposes of making Laws and Regulations on the 8th September, 1914:—

**No. 9 of 1914.**

*A Bill to amend certain enactments and to repeal certain other enactments.*

WHEREAS it is expedient that certain formal amendments should be made in the enactments specified in the First Schedule;

and whereas it is also expedient that certain enactments specified in the Second Schedule, which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed;

It is hereby enacted as follows:—

1. This Act may be called the Second Repealing Short title. and Amending Act, 1914.
2. The enactments specified in the First Schedule are hereby amended to the Amendment of certain enactments. extent and in the manner mentioned in the fourth column thereof.

3. The enactments specified in the Second Schedule are hereby repealed to Repeal of certain enactments. the extent mentioned in the fourth column thereof.

4. The repeal by this Act of any enactment shall not affect any Act or Savings. Regulation in which such enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

## THE FIRST SCHEDULE.

## AMENDMENTS.

(See section 2)

1.	2	3	4	5
Year	No	Short title	Amendments.	Explanations.
1870	VII	The Court Fees Act, 1870	In Schedule II, Article 6, for the words "Bail bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1882, or the Code of Civil Procedure", the following shall be substituted, namely —  " Bail bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, 1908, and not otherwise provided for by this Act "	Certain bail bonds are exempted from payment of fee by section 19, clause xv. The amendment is purely formal.
1898	III	The Government Tenants (Punjab) Act, 1898	1 In the title and preamble, for the word " Punjab " the words " North-West Frontier Province " shall be substituted  2 For section 1, the following section shall be substituted —  " 1 (1) This Act may be called short title and the Government Tenants (North-West Frontier Province) Act, 1898.  (2) It extends to the territories for the time being administered by the Chief Commissioner of the North-West Frontier Province "	The Act has been repealed in the Punjab by Punjab Act V of 1912 Sub section (3) of section 1 provides for the commencement of the Act and is omitted as unnecessary.
1894	VIII	The Indian Tariff Act, 1894	In Schedule III, for the words " Spirit which has been rendered effectually and permanently unfit for human consumption " the words " Denatured spirit " shall be substituted	Consequential on the amendment of section 155 of the Sea Customs Act, 1878, which it is proposed to make by the Sea Customs (Amendment) Bill
1897	X	The General Clauses Act, 1897	1 In section 3, after clause 8 (a), the following shall be inserted, namely —  " 8 (b) 'Central Provinces Act' shall mean an Act made by the Chief Commissioner of the Central Provinces in Council under the Indian Councils Acts, 1861 to 1908."	A Legislative Council has been constituted for the Central Provinces.

1	2	3	4	5
Year	No	Short title.	Amendments	Explanations
1897	X	The General Clauses Act, 1897— <i>concl'd</i>	<p>2 To section 24, the following shall be added, namely —</p> <p>“and when any Act of the Governor General in Council or Regulation, which, by a notification under section 5 XIV of 1874 or 5-A, of the Scheduled Districts Act, 1874, or any like law, has been extended to any local area, has, by a subsequent notification, been withdrawn from and re-extended to such area or any part thereof, the provisions of such Act or Regulation shall be deemed to have been repealed and re-enacted in such area or part within the meaning of this section”</p> <p>3 After section 29, the following section shall be added, namely —</p> <p>“30 In this Act the expression “Act of the Governor General in Council”, wherever it occurs, except in section 5, and the word “Act” in clauses (9), (12), (28), (48) and (50) of section 3 and in section 25 shall be deemed to include an Ordinance made and promulgated by the Governor General under section 23 of the Indian 24 &amp; 25 Vict. Councils Act, 1861.”</p>	<p>The principle on which the section is based includes such cases</p> <p>It is desirable that the General Clauses Act should apply to Ordinances.</p>
1908	V	The Code of Civil Procedure, 1908	<p>In the first Schedule, Order V, for clause (b) of rule 20, the following shall be substituted —</p> <p>“(b) the Governor General in Council has, by notification in the <i>Gazette of India</i>, declared in respect of any Court situate in any such territory and not established or continued in the exercise of any such jurisdiction as aforesaid, that service by such Court of any summons issued by a Court under this Code shall be deemed to be valid service.”</p>	<p>It has been pointed out that the clause as worded may lead to the inference that the Governor General in Council may, under this section, issue a declaration authorizing a Native State Court to serve summonses issued under the Code. The amendment is purely verbal.</p>

1	2	3	4	5
Year.	No.	Short title.	Amendments.	Explanations.
1911	II	The Indian Patents and Designs Act, 1911.	In sub-section (5) of section 16, after the word "conditions" the words "and restrictions" shall be inserted.	Some difficulty has recently been felt as to the power of the Controller to insert provisions for the protection of persons who may have availed themselves of the subject-matter of the patent after it had ceased.
1914	IV	The Decentralization Act, 1914.	In Part I of the Schedule, in No. 1 of the amendments made in Act XX of 1883, for the word "Commissioner" the words "the Commissioner" shall be substituted.	To correct a verbal error.

## THE SECOND SCHEDULE.

## REPEALS

(See section 5).

1	2	3	4	5
Year	No.	Short title	Extent of repeal.	Explanations.
1859	XXIV	The Madras District Police Act, 1859	In section 1, the words <i>from</i> "words importing the singular" to "include females"	Number and gender clauses. Unnecessary in view of s 13 of the General Clauses Act, 1897
1865	XXX	The Madras Irrigation and Canal Company Act, 1865	So much as is unrepealed.	Obsolete
1867	III	The Public Gambling Act, 1867	In section 1, the words <i>from</i> "words in the singular" to "include females"	Number and gender clauses. Unnecessary.
1872	IV	The Punjab Laws Act, 1872.	Section 4 and the Second Schedule	Repealing enactment Spent <i>Vide</i> s 6 (a) and 7 (1) of the General Clauses Act, 1897
1875	XV	The Punjab Laws Amendment Act, 1875	In section 1, the words "and it shall come into force at once"	Commencement clause. Unnecessary in view of s 5 of the General Clauses Act, 1897.
1879	XIV	The Hackney Carriage Act 1879.	In section 1, the words "and it shall come into force at once, but"	Ditto.
1880	XVI	The Madras Irrigation and Canal Company's Act, 1880	The whole ... ..	Obsolete
1881	XXIV	The Punjab Laws Amendment Act, 1881	In section 1, the words "and shall come into force at once"	Commencement clause Unnecessary
1885	XXI	The Madras Civil Courts Act, 1885	In section 1, the word "and" after sub-section (1), and sub section (2).	Ditto.
1889	VI	The Probate and Administration Act, 1889.	1 In the title and preamble the words "the Court fees Act, 1870" 2 The heading above section 18 3 Section 18, so much as is unrepealed.	See amendment in Schedule II of Act VII of 1870, proposed in First Schedule.
1892	VII	The Madras City Civil Court Act, 1892.	In section 1, the word "and" after sub-section (1), and sub section (2)	
1899	XVI	The Northern India Canal and Drainage (Amendment) Act, 1899	In section 1, the word "and" after sub-section (1), and sub-section (2)	



1	2	3	4	5
Year	No.	Short title.	Extent of repeal	Explanations.
1908	V	The Code of Civil Procedure, 1908	Section 156 and the Fifth Schedule	Repealing enactment Spent.
"	IX	The Indian Limitation Act, 1908	Section 32 and the Third Schedule.	Ditto.
1909	IV	The Whipping Act, 1909	Section 8 and the Schedule .	Ditto.
1911	XVII	The Indian Anships Act, 1911	In section 10, the word " of " in the second place where it occurs	To correct a verbal error.
1912	II	The Co-operative Societies Act, 1912.	Section 50      ...      ..	Repealing enactment Spent.
"	IV	The Indian Lunacy Act, 1912.	Section 101 and the Second Schedule	Ditto.
"	VI	The Indian Life Assurance Companies Act, 1912.	Section 42      ...      ...	Ditto.
"	VIII	The Wild Birds and Animals Protection Act, 1912.	Section 9      ...      ..	Ditto.
1914	VIII	The Indian Motor Vehicles Act, 1914	In the proviso to section 9, the words " by such authority and "	The words are unnecessary.

## STATEMENT OF OBJECTS AND REASONS.

It is intended shortly to issue revised editions of the Madras Code and the Punjab and North-West Frontier Province Code. Following the usual practice it is proposed to make some formal amendments in, and to remove obsolete matters from, certain Acts of the Governor General in Council which are included in those Codes, respectively. These proposals are formulated in the Bill.

The opportunity has been taken to include in the Bill certain formal amendments and repeals in some Acts of the Governor General in Council of general application.

The reasons for the proposed amendments and repeals are sufficiently explained in the fifth column of the schedules annexed to the Bill.

•  
SYED ALI IMAM.

*The 30th August, 1914.*

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W. H. VINCENT,  
*Secretary to the Government of India.*

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 8th September, 1914 —

No 10 OF 1914

*A Bill to amend the Foreigners Act, 1864*

III of 1864 WHEREAS it is expedient to amend the Foreigners Act, 1864, It is hereby enacted as follows —

1 This Act may be called the Foreigners  
Short title (Amendment) Act, 1914

III of 1864. 2 After section 3 of the Foreigners Act, 1864,  
Insertion of new section the following section shall  
3A, Act III, 1864 be inserted, namely —

“ 3A (1) Whenever in a Presidency town or in the town of Rangoon the Commissioner of Police, or elsewhere the Magistrate of the District considers that the Local Government should be moved to issue an order under section 3 in respect of any foreigner within the limits of his jurisdiction, he may report the case to the Local Government, and at the same time issue a warrant for the apprehension of such foreigner

(2) Any officer issuing a warrant under sub-section (1) may, in his discretion, direct by endorsement on the warrant that if such foreigner executes a bond with or without sureties for his attendance at a specified place and time, the officer to whom the warrant is directed shall take such security and release such foreigner from custody

(3) An officer executing a warrant under sub-section (1) may search for and apprehend the foreigner named in such warrant, and, subject to any direction issued under sub-section (2), shall forthwith cause such foreigner when apprehended to be produced before the officer issuing the warrant

(4) When a foreigner apprehended in pursuance of a warrant issued under sub-section (1) is produced or appears before the officer issuing such warrant, such officer may direct him to be detained in custody pending the orders of the Local Government, or may release him on his executing a bond with or without sureties to appear at a specified place and time and thereafter until the orders of the Local Government are obtained.

(5) Whenever a foreigner is apprehended under this section the officer issuing the warrant shall forthwith report the case to the Local Government, and on receipt of the orders of the Local Government, shall cause such foreigner to be discharged or otherwise dealt with in accordance with such orders ”

STATEMENT OF OBJECTS AND REASONS.

THE Bill is intended to remedy a defect in the machinery of the Foreigners Act. Preliminary action towards obtaining an order of removal from Government is necessarily taken by local officers. Under the Act as it stands, however, there is no provision by which a foreigner can be placed under restraint during the interval which must elapse before the order of removal can be obtained, and the provisions of the Act may thus be evaded.

R. H. CRADDOCK

*The 1st September, 1914*

•  
W. H. VINCENT,  
*Secretary to the Government of India.*





